

Baillie v. Chubb

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Korte (2/27/03)

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3 UNITED STATES DISTRICT COURT
4 SOUTHERN DISTRICT OF OHIO
5 WESTERN DIVISION
6 -----
7 DOUGLAS W. BAILLIE, :
8 Plaintiff, :
9 vs. : CASE NO.
10 CHUBB & SON INSURANCE: : C-1-02-062
11 Defendant :
12 -----
13 DEPOSITION OF: DIETER WILHELM WOLFGANG KORTE
14 TAKEN: By the Plaintiff
15 DATE: February 27, 2003
16 TIME: Commencing at 9:00 a.m.
17 PLACE: Offices of:
18 Freking & Betz
19 215 East Ninth Street
20 Fifth Floor
21 Cincinnati, Ohio 45202
22 BEFORE: RAYMOND E. SIMONSON
23 Registered Merit Reporter
24 Notary Public - State of Ohio

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1
2
3 I N D E X
4
5 DIETER WILHELM WOLFGANG KORTE PAGE
6 CROSS-EXAMINATION BY MR. FREKING: 4
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10
11
12COMPUTER
DISK

1 APPEARANCES:

2 On behalf of the Plaintiff:
3 RANDOLPH H. FREKING, ESQ.
4 of
5 Freking & Betz
6 215 East Ninth Street
7 Fifth Floor
8 Cincinnati, Ohio 45202

9 On behalf of the Defendant:

10 DAVID T. CROALL, ESQ.,
11 of
12 Porter, Wright, Morris & Arthur
13 250 East Fifth Street, Suite 2200
14 Cincinnati, Ohio 45202-5117

15 S T I P U L A T I O N S

16 It is stipulated by and between counsel for
17 the respective parties that the deposition of DIETER
18 WILHELM WOLFGANG KORTE, a witness herein, may be taken at
19 this time by Counsel for the Plaintiff as upon
20 cross-examination pursuant to the Federal Rules of Civil
21 Procedure; that the deposition may be taken in stenotypy
22 by the notary public-court reporter and transcribed by him
23 out of the presence of the witness; that the transcribed
24 deposition is to be submitted to the witness for his
examination and signature; and that signature may be
affixed out of the presence of the notary public-court
reporter.

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1 DIETER WILHELM WOLFGANG KORTE
2 of lawful age, a witness herein, being first duly sworn as
3 hereinafter certified, was examined and testified as
4 follows:

5 CROSS-EXAMINATION

6 BY MR. FREKING:

7 Q. Hi, Dieter.
8 A. Hi.
9 Q. How you are you?
10 A. Good.
11 Q. We just met, but my name is Randy Freking,
12 and I represent Doug Baillie in connection with the matter
13 he's brought here in Federal Court in Cincinnati, and
14 we're here today to conduct your deposition.
15 Ray will take down your answers to various
16 questions. And we just ask you to consider, you know, the
17 questions as carefully as possible and take whatever time
18 you need to answer the questions. There's no time
19 deadline whatsoever. I know you've got to leave by 11:20,
20 but that doesn't mean we have to finish by that time.
21 A. Okay.
22 Q. We can always resume on another date. So
23 take whatever time you need to answer questions today.
24

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1 Also, if I ask you any questions that you 2 don't understand, please feel free to ask for 3 clarification, a definition of terms, you know, anything 4 like that -- 5 A. Okay. 6 Q. -- that makes it possible for you to answer 7 the question as honestly as possible. 8 Thirdly, Ray will not guess what you mean if 9 you shake your head or make some other gestures. So all 10 your responses today have to be verbal. Okay? 11 A. Okay. 12 Q. If you would like to consult with 13 Mr. Croall, I assume he's your attorney for purposes of 14 this deposition, so I think our custom and practices allow 15 you to do that, assuming, provided, there's not a question 16 on the floor. We prefer you do that between questions 17 rather than during questions. 18 MR. CROALL: Just so we're clear, I 19 represent the company, not Mr. Korte individually. 20 But, yeah, I'm here today to answer any questions 21 that he might have about the process. And if he's 22 got a question, even if the question is pending, if 23 he's got a question about privilege or whether 24 there's some reason he should not answer it, he's	1 A. Married, two children. 2 Q. Do either your wife or your children have 3 anything to do with Chubb in terms of work? 4 A. Other than my employment? 5 Q. Right. 6 A. No. 7 Q. All right. And, Dieter, how long have you 8 worked for Chubb? 9 A. 12 years and two days. 10 Q. Okay. Can you just give me kind of a 11 rundown of your career with Chubb? 12 A. I started in the Detroit office as a 13 commercial underwriting trainee; stayed in the Detroit 14 office through various positions until June of '97. 15 In June of '97, I was promoted to become the 16 underwriting manager in our suburban Illinois office. I 17 stayed there till October of '98, at which time I was 18 promoted to my current position as regional underwriting 19 manager in Cincinnati. 20 Q. And as the regional underwriting manager, do 21 you deal with underwriting beyond commercial underwriting, 22 or are you limited to commercial underwriting? 23 A. No; I'm limited to commercial underwriting. 24 Q. All right. And you've dealt with commercial
1 certainly free to consult with me about that. 2 Q. Okay. And I think last, but not least, if 3 you want to take a break at any time, just let us know. 4 We're happy to accommodate that. If you need some more 5 water, if you'd like a soft drink or coffee, let us know. 6 Would you like anything like that before we 7 start? 8 A. No thanks. 9 Q. All right. Cool. Dieter, can you basically 10 start the deposition after my diatribe there by stating 11 your full name and your current home address, your current 12 telephone number, your marital situation, your family 13 situation, et cetera, stuff like that? 14 A. Dieter -- do you need the middle name? 15 Q. Sure. 16 A. Wilhelm Wolfgang Korte. 17 Q. Okay. 18 A. Address is [REDACTED] 19 [REDACTED] 20 Q. Okay. And what's your current home 21 telephone number? 22 A. [REDACTED] 23 Q. And are you married? Do you have any 24 children?	Page 6 1 underwriting matters, it sounds like, your entire career 2 with Chubb? 3 A. That's correct. 4 Q. All right. And, Dieter, what is your date 5 of birth? 6 A. [REDACTED] 7 Q. And did you come to Chubb straight out of 8 college or something? 9 A. Correct. 10 Q. All right. Where did you go to school? 11 A. I graduated from Western Michigan University 12 in Kalamazoo, Michigan. 13 Q. And where were you born? 14 A. In Germany. 15 Q. What city? 16 A. Iserlohn. Let me spell that for you. 17 I-s-e-r-l-o-h-n. 18 Q. All right. Was that in, I assume -- let me 19 ask you this, but I assume West Germany? 20 A. Correct. 21 Q. Back in the old days? 22 A. Yeah. 23 Q. How long have you been in the States? 24 A. On and off, I spent different time frames

Redacted

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<p>1 here, but consistently since November of 1987.</p> <p>2 Q. How many years did you go to Western</p> <p>3 Michigan?</p> <p>4 A. Two years. I went year-round.</p> <p>5 Q. '85 to '87. Did you graduate?</p> <p>6 A. No. I went from eighty -- I started in '88,</p> <p>7 graduated in 1990.</p> <p>8 Q. Oh, I see. Did you come to Chubb on some</p> <p>9 kind of work visa?</p> <p>10 A. No. I had a green card when I started. I</p> <p>11 had a permanent residency green card.</p> <p>12 Q. And has anybody else in your family, to your</p> <p>13 knowledge, ever worked for Chubb?</p> <p>14 A. No.</p> <p>15 Q. Now explain to me what you mean when you use</p> <p>16 -- how would you describe commercial underwriting to a</p> <p>17 layman?</p> <p>18 A. We assume -- it's half of the company. We</p> <p>19 solicit the risk from insurance agents, who are</p> <p>20 independent contractors who represent Chubb in the</p> <p>21 marketplace, and my responsibility would be to assess the</p> <p>22 risk, price the risk, and then market my decision through</p> <p>23 the agent and obtain accounts for my company.</p> <p>24 Q. You said to assess the risk, price the risk,</p>	<p>1 casualty?</p> <p>2 A. Correct.</p> <p>3 Q. Liability, automobile, Workers' Comp, excess</p> <p>4 umbrella coverage?</p> <p>5 A. Correct.</p> <p>6 Q. That's what your department does?</p> <p>7 A. Right.</p> <p>8 Q. And has done since you came to Cincinnati?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. Is that also true before you came to</p> <p>11 Cincinnati?</p> <p>12 A. We did not always provide excess umbrella in</p> <p>13 my department.</p> <p>14 Q. When did you -- what period of time since</p> <p>15 you've been in Cincinnati have you provided excess</p> <p>16 umbrella?</p> <p>17 A. In Cincinnati, all along.</p> <p>18 Q. All right.</p> <p>19 A. But we changed our structure back in the mid</p> <p>20 '90s.</p> <p>21 Q. Okay. Now, you know Doug Baillie?</p> <p>22 A. Correct.</p> <p>23 Q. Have you done anything to prepare for</p> <p>24 today's deposition?</p>
<p>1 and then market the risk?</p> <p>2 A. Market the risk back to the agents, correct.</p> <p>3 Q. You mean call the agent with what you think</p> <p>4 was the appropriate price?</p> <p>5 A. Correct.</p> <p>6 Q. Whatever coverage is being asked about?</p> <p>7 A. Correct.</p> <p>8 Q. And this is coverage that's requested by</p> <p>9 various businesses?</p> <p>10 A. That's correct.</p> <p>11 Q. All right. And is your commercial</p> <p>12 underwriting limited to any particular type of insurance?</p> <p>13 A. It's -- when you say type of insurance, can</p> <p>14 you just specify?</p> <p>15 Q. Yeah. Is it limited to, you know, terrorism</p> <p>16 insurance, auto insurance, property, and casualty?</p> <p>17 A. No. We provide property and casualty</p> <p>18 coverage for what is called middle market customers. So</p> <p>19 it's property insurance, liability insurance, automobile,</p> <p>20 Workers' Compensation, and excess umbrella coverages.</p> <p>21 Q. You don't provide employer practices</p> <p>22 liability insurance?</p> <p>23 A. My department does not.</p> <p>24 Q. All right. I'm sorry, you said property and</p>	<p>1 A. I've met with Mr. Croall.</p> <p>2 Q. All right. And when was that meeting?</p> <p>3 A. Yesterday.</p> <p>4 Q. Okay. Can you tell us --</p> <p>5 MR. FREKING: I'm sorry?</p> <p>6 MR. CROALL: Nothing.</p> <p>7 Q. Can you tell us how long the meeting was?</p> <p>8 MR. CROALL: Object and instruct not to</p> <p>9 answer. We've had this conversation before.</p> <p>10 Whether I met for him five hours or ten minutes</p> <p>11 tells you something about the content of the</p> <p>12 conversation. The content of the conversation is</p> <p>13 privileged. So, therefore, I'm instructing him not</p> <p>14 to answer. If I'm wrong about that, some judge</p> <p>15 will tell me.</p> <p>16 MR. FREKING: Are you filing a motion?</p> <p>17 MR. CROALL: Well --</p> <p>18 Q. Okay. You're instructed not to answer that.</p> <p>19 Can you tell me where the meeting was?</p> <p>20 THE WITNESS (to Mr. Croall): Is that okay?</p> <p>21 MR. CROALL: That's okay.</p> <p>22 A. In Mr. Croall's office.</p> <p>23 Q. Did you review any documents?</p> <p>24 A. No.</p>

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1 Q. Was anybody else present?		1 A. Physically, in our office, 80, give or take
2 A. No.		2 a few.
3 Q. Have you discussed your deposition with		3 Q. Okay. Who is the most senior person in that
4 anybody besides Mr. Croall?		4 office in terms of responsibility?
5 THE WITNESS (to Mr. Croall): Shall I?		5 A. When you say was --
6 MR. CROALL: Yes.		6 Q. No; who is?
7 A. With my wife.		7 A. Is?
8 Q. Anybody else?		8 Q. Who is?
9 A. No.		9 A. Jerry Butler.
10 Q. Have you discussed the termination of Mr.		10 Q. All right. And then is there a chain of
11 Baillie -- just as a general topic and everything that		11 people that report directly to Mr. Butler, to your
12 goes along with it, I suppose -- with anybody since Mr.		12 knowledge?
13 Baillie has been terminated that you can recall?		13 A. Correct.
14 MR. CROALL: Other than counsel.		14 Q. I assume you're one of them?
15 Q. Other Than counsel.		15 A. That's correct.
16 A. I've had conversations with people in the		16 Q. Can you tell me the other people that report
17 office and my wife.		17 directly to Mr. Butler, to your knowledge?
18 Q. All right. What people in the office do you		18 A. To best of my knowledge, Diane Haggard.
19 think you've discussed this with?		19 Q. Is she HR?
20 A. My peers, other managers.		20 A. Yes, correct.
21 Q. Okay. And who would that be?		21 Q. Okay.
22 A. The specific names?		22 A. Jeff Barton.
23 Q. Yes, please.		23 Q. Tazic?
24 A. Greg Tazic.		24 A. No. No.
Page 14		Page 16
1 Q. How do you spell that?		1 Q. Where is Tazic?
2 A. T-a-z-i-c.		2 A. He just relocated to another Chubb office,
3 Q. Did you say Greg?		3 Jay Taylor. That's T-a-y-l-o-r.
4 A. Yes.		4 Okay. Kathleen Overlan. That's
5 Q. Okay.		5 O-v-e-r-l-a-n. Dave Corry, C-o-r-r-y. Andrew Emery.
6 A. Diane Haggard. It's H-a-g-g-a-r-d.		6 Q. Okay.
7 Q. Okay.		7 A. That's E-m-e-r-y, I believe.
8 A. Jeff Barton. I think Jerry Butler. Tom		8 And John LaFrance. And let me think. I
9 Gates. Those are the names I specifically recall having		9 don't want to leave anybody out for you.
10 had a conversation with.		10 Did I mention Jeff Barton? I think I did.
11 Q. Okay. Can you describe for me a little bit		11 Q. Did you say David Corry?
12 about how your office is set up? First of all, where is		12 A. David, yes. We call him Dave.
13 your office?		13 I think those would be the direct reports
14 A. It's at 312 Walnut Street, on the eighteenth		14 physically in our office.
15 floor.		15 Q. Okay. Do you know whether, at the time --
16 Q. All right. Have you been located at that		16 during Mr. Baillie's tenure, were all those people in that
17 office ever since you came to Cincinnati?		17 office, to your recollection?
18 A. Yes.		18 A. I don't believe so, no.
19 Q. And who else? How many employees roughly		19 Q. Who do you think is new since Baillie came
20 work in that office?		20 on board?
21 A. Physically?		21 A. I believe Jay Taylor is new. And Kathleen
22 MR. CROALL: Currently --		22 Overlan is in a new role. She was located in another
23 THE WITNESS (to Mr. Croall): Currently?		23 office that reported to the Cincinnati office.
24 MR. CROALL: -- you're asking?		24 Q. Okay. Where did she previously work?

<p>1 A. In our Louisville office.</p> <p>2 Q. Did she get a promotion, to the best of your 3 knowledge?</p> <p>4 A. Yes.</p> <p>5 Q. And do you think LaFrance, Emery, Corry, 6 Barton, Haggard, and yourself worked for Mr. Baillie?</p> <p>7 A. Yes.</p> <p>8 Q. Has anybody left other than Mr. -- how about 9 Mr. Tazik? Did he work for Mr. Baillie?</p> <p>10 A. No. The claims operation does not directly 11 report to the branch manager.</p> <p>12 Q. Has anybody left, to your knowledge, that 13 reported directly to Mr. Baillie?</p> <p>14 A. Well, Mr. Taylor is new. His predecessor 15 reported to Mr. Baillie, and his predecessor is in a 16 different position now.</p> <p>17 Q. Who is Mr. Butler's predecessor?</p> <p>18 A. No; Mr. Taylor's predecessor is what I'm 19 referring to.</p> <p>20 Q. Oh, I'm sorry. Mr. Taylor's predecessor?</p> <p>21 A. Mr. Butler's predecessor would be Mr. 22 Baillie.</p> <p>23 Q. Who is his predecessor?</p> <p>24 A. Mr. Zdinak. And please don't ask me to</p>	Page 17	Page 19
<p>1 spell it. I believe it's Z-d-i-n-a-k. I'll give it a 2 try.</p> <p>3 Q. Okay. Where did Mr. Zdinak go?</p> <p>4 A. He's still physically located in our office, 5 but has a role that doesn't directly report to the branch.</p> <p>6 Q. Is he in a lower role now on the 7 organizational chart?</p> <p>8 A. It's a different role. It doesn't really 9 fit into the current organizational chart. It's removed 10 from the branch. It's an oversight role on a larger 11 geographic area.</p> <p>12 Q. Is Mr. Zdinak older or younger than 13 Mr. Taylor, to your knowledge?</p> <p>14 A. I don't know that for a fact. I would 15 guess.</p> <p>16 Q. What do you think? What would you guess?</p> <p>17 THE WITNESS (to Mr. Croall): Can I?</p> <p>18 MR. CROALL: Give it a guess.</p> <p>19 A. I'll give it a guess, that Mr. Zdinak is 20 older than Mr. Taylor.</p> <p>21 Q. All right. And do you know, did Ms. Overlan 22 replace anybody?</p> <p>23 A. I believe the position was vacant for a 24 while, but she replaced a gentleman by the name of Michael</p>	Page 18	Page 20

	Page 21	Page 23
1	A. Yes.	1 Q. Do you recall, have you ever had a
2	Q. Did he replace somebody?	2 discussion with Mr. Szerlong that you can ever remember
3	A. Yes.	3 having?
4	Q. Who did he replace?	4 MR. CROALL: On any topic.
5	A. He replaced -- let me think who it is. I'm	5 Q. On any topic?
6	getting old. What's his name now?	6 A. Yes.
7	If it comes back to me, I'll --	7 Q. Just some small talk, chat, or in connection
8	Q. Okay.	8 with some job-related matter?
9	A. God, it's ridiculous.	9 A. Both.
10	MR. CROALL: You remember what you remember.	10 Q. What types of job-related matters have you
11	Q. How old is Mr. Krohn, would you estimate?	11 had discussions?
12	A. That's difficult for me to estimate. He has	12 A. Prior or post?
13	teenage children, so I can only guess that he's in his	13 Q. At any time.
14	forties, but that would be a guess.	14 A. I had applied for a position that would have
15	Q. Okay.	15 directly reported to Mr. Szerlong that was about a year
16	MR. CROALL: I think teenage children makes	16 ago. I have also discussed various business issues with
17	you look older than you are.	17 relation to our territory with Mr. Szerlong, discussed
18	A. Yeah. No offense.	18 staffing issues with Mr. Szerlong and had small talk.
19	Q. Exactly. You're lucky you don't have that	19 Q. Okay. To the best of your recollection, you
20	yet.	20 don't recall Mr. Baillie's name coming up in all of these
21	A. I'm on my way.	21 conversations you may have had with Mr. Szerlong over the
22	I have to give up on it for now.	22 years?
23	Q. What's his job responsibilities, Mr.	23 A. No.
24	Krohn's?	24 Q. All right. And, to your knowledge, you had
	Page 22	Page 24
1	A. He's our personal lines department manager.	1 no role in the decision to fire Mr. Baillie?
2	Q. Okay. Does anybody else report directly to	2 A. No.
3	Mr. Butler that you're aware of other than the four people	3 Q. All right. Now, when Mr. Baillie was there,
4	-- other than the people you've identified in Cincinnati	4 how much day-to-day contact would you say you had with Mr.
5	and the four people outside of Cincinnati?	5 Baillie? I mean, was it weekly?
6	A. No. That would be it --	6 A. It varied. It was -- when both of us were
7	Q. Is there any --	7 in the office, it was certainly daily contact.
8	A. -- to the best of my knowledge.	8 Q. Okay.
9	Q. Is there anybody in Indianapolis that	9 A. We were not always in the office at the same
10	reports to him?	10 time, but we would have meetings. We would have small
11	A. No.	11 talk. I would stop by his office. He would stop by my
12	Q. All right. Do you know who Mr. Butler	12 office.
13	reports to?	13 Q. Frequent interaction?
14	A. Yes. He reports to a gentleman in Chicago.	14 A. Yeah, I would say.
15	His name is Tim Szerlong. It's S-z-e-r-l-o-n-g.	15 Q. Kind of normal interaction of guys that work
16	Q. Okay. Have you ever discussed Mr. Baillie's	16 in the same office?
17	termination with Mr. Szerlong?	17 A. Well, I reported to him, so...
18	A. No.	18 Q. Okay. Did Mr. Baillie and you do anything
19	Q. Prior to Mr. Baillie's termination, did you	19 socially that you can recall?
20	ever discuss Mr. Baillie's performance in any way, shape,	20 A. Socially, it would have always been
21	or form with Mr. Szerlong?	21 work-related.
22	A. Did I discuss it?	22 Q. Okay.
23	Q. Yes.	23 A. But it would have been after the office or
24	A. No.	24 outside of the office, yes.

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1 Q	Sometimes you would have a business dinner?	1 face-to-face meeting?
2 A.	Yeah.	2 A. It was a business convention in the late
3 Q.	Or you would -- you might have socialized	3 fall of 2001 at the Hyatt here in Cincinnati, and he was
4 together at business functions? Conventions?		4 manning a booth for a charity organization that he had
5 A.	Correct.	5 been part of called Insuring the Children at an insurance
6 Q.	Things like that, right?	6 convention.
7 A.	Correct.	7 Q. Okay. And do you remember anything from
8 Q.	Have you ever, like, played golf with him or	8 that face-to-face conversation, other than you engaged in
9 gone to a sporting event with Mr. Baillie?		9 some small talk?
10 A.	Both, yes.	10 A. Yes. We had some conversations about Chubb,
11 Q.	Okay. But on a business-related purpose?	11 about the state of the marketplace, conversations about
12 A.	Yes. Those would have been	12 Mr. Szerlong, and about -- he made comments about his
13 business-related.		13 termination.
14 Q.	Okay. Now tell me, how did you find out Mr.	14 Q. Okay. This was in the late fall?
15 Baillie had been fired?		15 A. Yeah. I -- my best guess was -- it was
16 A.	Mr. Baillie called me at my home.	16 getting pretty cold outside. It probably would have been
17 Q.	And what do you recall about that?	17 early November, late October, early November of 2001.
18 A.	It was a Friday evening, and I believe it	18 Q. Okay.
19 was the day that he had the discussions with Mr. Szerlong,		19 A. It was -- I think it's called Big I Day,
20 and he called me -- I think he was concerned just how I		20 which is a CPU convention. It's a professional insurance
21 would take, you know, his departure from the company,		21 organization.
22 whatever you want to call it, and he -- I'm trying to		22 Q. Big I Day, I standing for insurance?
23 recollect the entire conversation. Give me just a second.		23 A. I believe that's what it stands for.
24 Q.	Okay. Take whatever time.	24 Q. Okay. Is that like an annual meeting of
Page 26		Page 28
1 A.	He put it in the context of he had a	1 some sort?
2 discussion with Mr. Szerlong and they agreed to disagree		2 A. Annual, by -- yeah. They bring in speakers,
3 and that he was no longer employed by Chubb. And he said		3 talk about various topics.
4 it had nothing to do with anything I had ever done, my		4 Q. All right. Now, prior to the day he spoke
5 business results or performance. He said, "It's a great		5 with you at your home -- you said he was very professional
6 company, that you'll have a great career with the		6 the day of his termination apparently. Had Mr. Baillie
7 company," and, you know, he's going to -- that's pretty		7 ever engaged in any kind of conduct that you were aware of
8 much the extent of his conversation.		8 that you thought was unprofessional or not in the interest
9 Q.	Okay.	9 of Chubb, that you thought was wrong in some manner in
10 A.	And he just said -- he re-emphasized -- he	10 some way, shape, or form?
11 wanted to make sure that I recognized that it had nothing		11 A. That would be my personal judgment, right?
12 to do with anything that I had done or my performance		12 Q. Right.
13 level.		13 A. That's what you're asking for?
14 Q.	Okay. Sounds like a fairly professional	14 Q. Yeah.
15 conversation.		15 A. Yeah, I would say.
16 A.	Yes. It was very professional.	16 Q. Okay. What would you -- can you describe
17 Q.	All right. Have you ever had any	17 what you're thinking of?
18 conversations with Mr. Baillie since that you can recall?		18 A. Again, this is my personal judgment. I
19 A.	Yes.	19 think there were events where Mr. Baillie was the only one
20 Q.	Can you describe in any way the number of	20 drinking alcohol.
21 conversations you've had with Mr. Baillie since then?		21 Q. Okay.
22 A.	I had one conversation face to face, and I	22 A. There was at least one event where he
23 received an e-mail from him since then.		23 offended me personally at a meeting.
24 Q.	Okay. What was the context of your	24 There was a department meeting that I held

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1 where he started reading a newspaper in the middle of a
2 department meeting that I was conducting.

3 Q. Okay.

4 A. Those are the ones that come to my mind
5 immediately.

6 Q. Well, do you have any notes or documents or
7 memos --

8 A. No.

9 Q. -- at home or the office that would refresh
10 your recollection some way?

11 A. No.

12 Q. Okay.

13 A. That wasn't my job to do.

14 Q. When do you think he read this newspaper
15 during one of your meetings?

16 A. You mean the date? The date?

17 Q. Yeah. Do you know the year? Can you put it
18 somewhere in relationship to his termination?

19 A. Probably 2000.

20 Q. Okay. Did you discuss this with anybody?

21 A. Yes.

22 Q. Who did you discuss it with?

23 A. Mr. Tazic and Ms. Haggard, those two.

24 Q. Okay. What did you tell them about it?

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1 A. In colorful language that I was upset and I
2 thought it was unacceptable.

3 Q. Okay. Why did you think it was
4 unacceptable?

5 A. Because I felt it was unprofessional.

6 Q. Okay.

7 A. And it was demeaning the intent of our
8 meeting.

9 Q. How many meetings did you have like that, do
10 you think, where Mr. Baillie would attend?

11 A. We -- that type of meeting is being held on
12 a monthly basis in our office.

13 Q. Okay.

14 A. He attended a fair amount. I couldn't tell
15 you the exact percentage of his attendance.

16 Q. Okay. Were there any other meetings that
17 you can recall in which you thought any conduct by Mr.
18 Baillie was unacceptable or unprofessional or demeaning?

19 A. Yes. He held a branch meeting where he
20 classified me as an overpaid employee.

21 Q. Tell me the context of that. How would that
22 come up?

23 A. Let me dig deep.

24 It was -- he was trying to put it in the

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1 context of saving money, and I had suggested for customer
2 service to get in a car and make a delivery to an agent in
3 Dayton. I believe it was a policy. It might have been a
4 form or something they needed from us.

5 And in front of the branch he used it as an
6 example where, instead -- he said, "Instead of using
7 Dieter's overpriced salary to drive up there and deliver
8 that, we used a courier for 10 or 20 dollars," whatever
9 the price tag might have been, "instead."

10 And he did that in front of the entire
11 branch, and I was very offended by that.

12 Q. So your interpretation of that was he was
13 saying you were paid too much, rather than it's kind of
14 silly to have -- how much do you make approximately?

15 A. Do I have to answer that?

16 MR. CROALL: It doesn't really have any
17 relevance. It's personally intrusive, and I'm
18 pretty comfortable instructing him not to answer
19 that. He makes more than a courier. I'll
20 stipulate to that.

21 Q. You didn't think that Mr. Baillie meant from
22 a cost standpoint, "Dieter, it's a heck of a lot cheaper
23 to get a courier to take something to Dayton than have you
24 drive it up there"?

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1 A. I would say that would have been the
2 appropriate way to say it, yes, but he chose -- he did not
3 choose those words.

4 Q. So your criticism -- what do you think was
5 his intent? Do you think his --

6 A. I don't want to speculate on that.

7 Q. Do you think he meant to insult you?

8 A. I don't know. I can't read his mind. I
9 know the words he used, and I was offended by it.

10 Q. You were offended. You didn't give -- you
11 were offended because you thought he was insulting you?

12 A. I was offended because of the words that he
13 used in front of the branch, correct.

14 Q. Okay. Did anybody tell you as a result of
15 that meeting that they thought it was insulting to you?

16 A. Yes.

17 Q. Who was that?

18 A. Both Mr. Tazik and Mr. Gates.

19 Q. Okay. Anybody else that you can recall
20 telling that to or discussing that with?

21 A. Not that I can recall.

22 Q. Okay. Any other meetings in which you
23 thought he said something that you thought was
24 inappropriate, unprofessional, insulting, demeaning?

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1 A. Not that I can recall right now.	1 A. Yes.	
2 Q. Do you agree with me that Mr. Baillie's	2 Q. Okay.	
3 intent could have been to say, "Dieter, it's a heck of a	3 A. No; more than one beer.	
4 lot cheaper to send a courier up there"?	4 Q. Do you golf on a regular basis?	
5 MR. CROALL: Object. Speculation.	5 A. No, not on a regular basis.	
6 You can answer if you can.	6 Q. Do you drink on a regular basis?	
7 A. I -- like I said earlier, that would have	7 THE WITNESS (to Mr. Croall): Do I have to	
8 been the way to say it, right.	8 answer that?	
9 Q. You agree with me that's one possible	9 MR. CROALL: Yeah. You can go ahead and	
10 interpretation of what he meant?	10 answer it.	
11 A. That, yes, intellectually, yes.	11 A. I'll have beers on weekends.	
12 Q. All right. And then tell me about the --	12 Q. Any other times when you observed Mr.	
13 why do you regard it as -- I think it was in response to	13 Baillie at some event at which he was drinking alcohol in	
14 me saying something about, "Did he ever engage in conduct	14 some manner that you thought was inappropriate, other than	
15 that was not in the best interest of Chubb or	15 the one time while he was golfing?	
16 unprofessional or inappropriate"?	16 A. Again, when you say inappropriate, do you	
17 You said there were meetings or events at	17 mean my personal judgment?	
18 which he was the only one drinking alcohol?	18 Q. Your personal judgment, right. That's all	
19 A. Yes.	19 we're talking about when I ask you.	
20 Q. Okay. Can you explain to me why that is	20 A. You mean the fact that he drank alcohol or	
21 "not in the best interests of Chubb, it was	21 the quantity he drank?	
22 unprofessional," or something like that?	22 Q. Either one. Anything that you thought was	
23 A. Again, it's my personal judgment, as I	23 inappropriate? I'm interested in knowing what you viewed	
24 prefaced an answer with. I just think it's not	24 as being inappropriate.	
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1 appropriate if you have meetings in the mornings that take	1 A. I viewed him drink -- I viewed him drink	
2 place and you have, you know, various people in attendance	2 more alcohol than other people in attendance at meetings	
3 that he was the only one drinking alcohol.	3 and at outings.	
4 Q. You're saying he was drinking alcohol at the	4 Q. Okay.	
5 morning meeting?	5 A. Was it inappropriate? I think it would have	
6 A. Yes. This was a morning golf outing,	6 been suffice (sic) to drink less. But that's my judgment.	
7 correct.	7 That's my opinion.	
8 Q. Do you recall where it was?	8 Q. All right. Are you saying he drank too much	
9 A. It was at his golf club, Ivy Hills.	9 at the golf outing at Ivy Hills or the fact he was	
10 Q. Okay. Did this occur one time?	10 drinking?	
11 A. I have witnessed it one time, correct.	11 A. He was the only one drinking at the time in	
12 Q. All right. Is there any other -- are there	12 the morning, prior to the golf outing even starting.	
13 other events at which you would recall that he was the	13 Q. All right. Was this golf outing like an	
14 only one drinking alcohol?	14 event --	
15 A. No, I don't recall that.	15 A. Um-hmm (nodding head affirmatively).	
16 Q. All right. Was anybody else that you can	16 Q. -- at his club?	
17 recall -- did anybody else indicate to you that you	17 A. Yes. It was organized for our agents.	
18 thought -- that they thought it was inappropriate for him	18 Q. And you're sure he was the only one that	
19 to be drinking alcohol at a golf outing?	19 drank alcohol that day?	
20 A. Inappropriate? No.	20 A. At that time, yes. Later in the day, other	
21 Q. Anybody else bothered -- you sound like you	21 people drank.	
22 think it was wrong.	22 Q. What time of day was this?	
23 A. I thought it was wrong at the time, correct.	23 A. It would have been either 10 or 11 o'clock	
24 Q. When you say alcohol, you mean a beer?	24 in the morning.	

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1 Q. Did anybody else tell you that they thought 2 it was inappropriate as well?	1 because you were instructed by Chubb not to communicate 2 with Mr. Baillie?
3 A. Did they use those words? No. Did people 4 snicker? Yes.	3 A. No.
5 Q. Anybody in particular?	4 Q. Have you ever been instructed by anybody at 5 Chubb not to communicate or talk to Mr. Baillie?
6 A. I don't recall now. It was a large group of 7 people.	6 A. No.
8 Q. And was Mr. Szerlong in attendance?	7 MR. CROALL: Other than counsel.
9 A. No.	8 Go ahead and answer.
10 Q. Did you ever mention this to Mr. Szerlong, 11 to your recollection?	9 A. Oh, no.
12 A. No.	10 Q. No? No one other than counsel told you 11 that?
13 Q. Okay. Anything else you ever you personally 14 observed during your tenure under Mr. Baillie that you 15 thought was inappropriate, unprofessional, demeaning, 16 insulting, or not in the best interest of Chubb?	12 MR. CROALL: You're not asking about 13 conversations with counsel?
17 A. Nothing stands out right now, no.	14 MR. FREKING: No.
18 Q. Do you have any notes or records --	15 MR. CROALL: And I'm instructing him not to 16 answer about conversations with counsel.
19 A. You mean during his employment, right?	17 MR. FREKING: I'm just clarifying. He said 18 something about other than counsel, so I was 19 clarifying.
20 Q. Right.	20 Q. Tell me about how Mr. Baillie was as a boss.
21 A. Is that what you're asking?	21 A. What do you mean by how he was?
22 Q. Right.	22 Q. If someone said to you, "Was Baillie a good 23 boss?" how do you think you'd answer?
23 A. Nothing that I can recall.	24 MR. CROALL: You're asking for his personal
24 Q. And you don't have any notes or documents	
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1 that would refresh your recollection?	1 opinion?
2 A. No.	2 Q. As of -- you know, if you can put yourself 3 back in your shoes --
3 Q. Okay. Great. Tell me about the e-mail that 4 he sent you or you sent him. You said there was some 5 e-mail; there was some correspondence between you and him.	4 A. Um-hmm (nodding head affirmatively).
6 A. Oh, after his --	5 Q. -- of when he was your boss?
7 Q. Departure.	6 A. Um-hmm (nodding head affirmatively).
8 A. -- departure? Yeah. He sent me an e-mail. 9 It would have been after thanksgiving of 2001, and the 10 gist of the e-mail was -- I don't recall the entire 11 verbiage, but in essence, "I'm in Florida now close to 12 Disney World."	7 Q. What was your belief while he was your boss 8 of how good a boss he was?
13 Basically, "If you want to stay with us," -- 14 you know, he has an open invitation, and, you know, "Don't 15 take the loss too hard."	9 A. Well, I would classify Doug as having been a 10 nice guy, other than probably the two incidences that I 11 mentioned to you earlier.
16 And he was referring to Michigan having lost 17 to Ohio State the prior weekend.	12 I was disappointed about his lack of 13 engagement in my business issues. I -- what would be the 14 best way to characterize it?
18 Q. Okay. Were you offended --	15 I was looking for more. I was looking for 16 more probably leadership. I was looking for more maybe 17 ability to listen, patience to listen.
19 A. No.	18 There were probably times where I would have 19 probably liked a little bit more support.
20 Q. -- or insulted by that?	20 That's probably in a nutshell the best way I 21 can summarize it.
21 A. No. No. I didn't respond.	22 Q. Okay. Overall, it seems pretty negative.
22 Q. You thought that was a friendly e-mail?	23 All you mentioned was negative things about him. All I 24 asked you was how he was as a boss.
23 A. Yeah. Yeah.	
24 Q. Was one of the reasons you didn't respond	

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<p>1 MR. CROALL: I'm going to object. I think 2 it's mischaracterized. At the outset, he said he 3 was a nice guy. You viewed it as a negative. 4 Maybe I misheard him.</p> <p>5 A. My point is: I would have liked more 6 leadership. I would have liked more support.</p> <p>7 Q. Your overall view of Mr. Baillie as a boss 8 was negative?</p> <p>9 A. (No response.)</p> <p>10 Q. Is there any reason why you're focusing on 11 the negative?</p> <p>12 A. No.</p> <p>13 Q. Were there any positive attributes that you 14 observed in Mr. Baillie?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Why don't we talk about those for a 17 second?</p> <p>18 A. Okay.</p> <p>19 Q. Why don't you tell me as many positive 20 attributes you can recall about Mr. Baillie, other than he 21 was a nice guy.</p> <p>22 A. He was engaged in the marketplace, meaning 23 he was very visible with our agents. I think people 24 genuinely liked Doug, or Mr. Baillie.</p>	<p>1 1 was a comfort level having those -- you know, that type of 2 conversation with him.</p> <p>3 Q. Can you think of anything else?</p> <p>4 A. No. I think that's the best of my 5 recollection right now.</p> <p>6 Q. Okay. Do you think the fact that he was 7 engaged in the marketplace was shared among your 8 colleagues?</p> <p>9 A. Yes. Um-hmm (nodding head affirmatively).</p> <p>10 Q. How about the fact that he was very visible 11 with agents? Do you think that was shared by your peers 12 as well?</p> <p>13 A. Yes.</p> <p>14 Q. The fact he was likable, was that shared?</p> <p>15 A. I would think so; at least by the people 16 that I have frequent contact with, yes.</p> <p>17 Q. How about your view that he was intelligent? 18 Do you think that was shared by others?</p> <p>19 A. I don't know that. That's my personal 20 opinion.</p> <p>21 Q. Okay. Did anybody else -- did anybody, in 22 your conversation with your peers, ever talk to you about, 23 you know, what they thought of his performance reviews? 24 Did they genuinely share your feelings, do you think?</p>
Page 42	Page 44
<p>1 I personally perceived Mr. Baillie to be 2 intelligent.</p> <p>3 I had very positive performance reviews.</p> <p>4 They were conducted in a timely manner.</p> <p>5 Q. Were they thorough?</p> <p>6 A. Yes. All my goals were addressed. He gave 7 me time to give him feedback on himself.</p> <p>8 Mr. Baillie was also visible in the branch.</p> <p>9 He would walk through the branch and make a point of 10 stopping by people's desks.</p> <p>11 Q. Kind of a people person?</p> <p>12 A. Yeah, that's probably a good...</p> <p>13 Q. Okay. Any other positive attributes that 14 you can remember?</p> <p>15 A. Yeah. From a personal, he had a good knack 16 for marketing, whatever the best way would be to put that.</p> <p>17 He would be focused on marketing Chubb in the marketplace 18 to our agents.</p> <p>19 Q. Anything else you can think of that was 20 positive about his performance?</p> <p>21 A. He would be -- I would say he would be 22 concerned, just personally, about just my family and, you 23 know, just ask if -- you know, appeared genuine in asking 24 how my family was doing, how my kids were doing. So there</p>	<p>1 A. No. We didn't discuss each other's 2 performance reviews.</p> <p>3 Q. Did you ever hear any of your peers 4 criticize the way Mr. Baillie handled his or her 5 performance review?</p> <p>6 A. No.</p> <p>7 Q. Do you think others shared the view that he 8 was kind of visible in the branch, making a point of 9 talking to people and things like that? Do you think the 10 view -- do you think it was shared that he was kind of a 11 people person?</p> <p>12 A. My guess is yes.</p> <p>13 Q. Do you think other people shared your view 14 that he had a good knack for marketing?</p> <p>15 A. Yeah.</p> <p>16 Q. Do you think other people shared your view 17 that, you know, he was pretty focused on marketing Chubb 18 to your agents?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Do you know whether or not he ever 21 showed any concern, you know, for other employees' 22 families and whether that view was kind of shared?</p> <p>23 A. I would think so.</p> <p>24 Q. All right. You said something about having</p>

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<p>1 kind of a comfort level with Mr. Baillie.</p> <p>2 A. Um-hmm (nodding head affirmatively).</p> <p>3 Q. What do you mean by that?</p> <p>4 A. I would discuss my -- you know, my family,</p> <p>5 children, how the children were doing, joke occasionally.</p> <p>6 Q. Did he talk about your family?</p> <p>7 A. Yeah.</p> <p>8 Q. You'd joke around with each other?</p> <p>9 A. Yeah.</p> <p>10 Q. Those areas you were critical of Mr. Baillie</p> <p>11 -- you know, the golf outing, you know, the other things</p> <p>12 you talked about -- did you ever kind of confront Mr.</p> <p>13 Baillie, sit down with him and say, "Doug, I think you</p> <p>14 insulted me;" or, "You shouldn't have been reading that;"</p> <p>15 or, "You shouldn't have been drinking that alcohol at the</p> <p>16 golf outing"?</p> <p>17 A. Not about the alcohol, but about the meeting</p> <p>18 and the newspaper, yes.</p> <p>19 Q. You went to the source. That was kind of a</p> <p>20 good idea. You said, "I had a problem with you reading</p> <p>21 the newspaper"?</p> <p>22 A. Yes.</p> <p>23 Q. How did Mr. Baillie react to that, if you</p> <p>24 recall?</p>	<p>1 Q. I guess you wouldn't know the hours, would</p> <p>2 you?</p> <p>3 A. I think Doug and I had a difference there,</p> <p>4 different opinion. I think I personally don't consider</p> <p>5 some of the social outings as hard work. Doug does.</p> <p>6 Q. Yeah.</p> <p>7 A. And we would discuss that openly.</p> <p>8 Q. Like some people who travel think it's</p> <p>9 enjoyable and some people that travel think it's work?</p> <p>10 A. Well, let me put it to you this way. Some</p> <p>11 people think playing golf is work because you're with a</p> <p>12 customer. My opinion is it's a social function.</p> <p>13 Q. Yeah.</p> <p>14 A. But I can see both sides of the coin. It's</p> <p>15 just my opinion.</p> <p>16 Q. Okay. How about the incidents with the pay?</p> <p>17 Do you recall his reaction to that? Did he say anything</p> <p>18 along the lines anything about that?</p> <p>19 A. Not that I recall specifically.</p> <p>20 Q. You don't recall him saying anything like,</p> <p>21 "Hey, Dieter, it's a lot cheaper to send a courier to</p> <p>22 Dayton than to send you to Dayton"?</p> <p>23 A. I really don't remember the exact</p> <p>24 conversation, no.</p>
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<p>1 A. I think more in the gist of, "I hear your</p> <p>2 point. Thanks for bringing that to my attention."</p> <p>3 Q. Did he ever do it again after you had that</p> <p>4 conversation with him? Did he ever --</p> <p>5 A. He never made a comment about my pay again,</p> <p>6 no, to the branch, no.</p> <p>7 Q. So you talked to him about the newspaper</p> <p>8 incident and the pay incident?</p> <p>9 A. Yes. And also when he solicited feedback, I</p> <p>10 mentioned to him that I would like for him to listen more,</p> <p>11 pay more attention to people, spend more time on listening</p> <p>12 to people.</p> <p>13 Q. Okay.</p> <p>14 A. And he appreciated that feedback.</p> <p>15 Q. Okay. Do you think he was sincere in some</p> <p>16 effort to try to get better in that area?</p> <p>17 A. It had the appearance to me.</p> <p>18 Q. All right. Did you generally view him as</p> <p>19 kind of a sincere guy?</p> <p>20 A. Yeah.</p> <p>21 Q. Hard-working? Did pretty much whatever you</p> <p>22 would know about his responsibilities?</p> <p>23 A. If you quantitated it about the hours, I</p> <p>24 mean --</p>	<p>1 Q. Okay. Now, I understand you entered the</p> <p>2 Cincinnati branch; you came to the Cincinnati branch a</p> <p>3 little bit after Mr. Baillie took over.</p> <p>4 A. Yeah.</p> <p>5 Q. Does that ring true with you?</p> <p>6 A. Yeah, that sounds right; a couple months</p> <p>7 after him, probably.</p> <p>8 Q. Is there any way how you would characterize</p> <p>9 how the morale was in the office at that time?</p> <p>10 MR. CROALL: When he first arrived?</p> <p>11 MR. FREKING: Yeah.</p> <p>12 A. When I first arrived, the overall office was</p> <p>13 probably decent. My department was in shambles.</p> <p>14 Q. Okay. What was your perception as to why</p> <p>15 your department was in shambles with respect to morale?</p> <p>16 A. I basically had one person doing the job of</p> <p>17 the entire department. My predecessor had left for</p> <p>18 another job with another company. Another underwriter in</p> <p>19 the department had quit. So, you know, the person who was</p> <p>20 holding up the fort was working very hard in a very</p> <p>21 adverse marketplace. It was very tough.</p> <p>22 Q. Who was that person who was kind of holding</p> <p>23 up the floor?</p> <p>24 A. Steve Ruhe, R-u-h-e.</p>

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1	Q. Does he still work there?	1 A. Those are the critical financial
2	A. Yes.	2 measurements.
3	Q. Still work in your area?	3 Q. Okay. Is it fair to say that the ones you
4	A. Yes.	4 stated after the underwriting profit, you know, are all
5	Q. Does he work directly for you?	5 kind of a subset of underwriting profit? They're all of
6	A. Correct.	6 either -- they either increase the profit or they decrease
7	Q. Okay. So Mr. Ruhe is overworked and	7 the profit?
8	underpaid?	8 A. With the exception of new business, correct.
9	A. He worked very hard.	9 New business has the potential, but it's -- it probably is
10	Q. All right. Now, did the -- how was the --	10 not an immediate effect on it, that's correct.
11	how are you judged -- how is your area judged in terms of	11 Q. Okay. You kind of look at new business as
12	performance from a financial perspective?	12 kind of --
13	A. From a financial perspective? We have a	13 A. Unknown growth. It's revenue growth.
14	myriad of measurements. If -- would you like me to	14 Q. -- in a long-term view?
15	prioritize them for you?	15 A. Correct.
16	Q. Sure.	16 Q. Okay. Now, did the morale in your area
17	A. Or overall?	17 improve -- did the morale at all in your area improve?
18	Q. That sounds good.	18 A. Um-hmm (nodding head affirmatively).
19	A. Probably the number-one goal would be to	19 Q. Between the time you arrived and Mr. Baillie
20	achieve what we call an underwriting profit.	20 left?
21	Q. Okay.	21 A. Oh, yes.
22	A. Which is a function of our loss ratio and	22 Q. Okay. Describe how that occurred.
23	our expenses.	23 A. The staffing, adequately staffing, people
24	Secondly, over the last years would have	24 receiving training, people receiving performance reviews,
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1	been what we call rate increases, which is basically price	1 people having measurable goals, people having guidelines,
2	-- in laymen's terms, pricing increases for our policies.	2 and just common goals and an idea of what it is that we're
3	Q. The more you're able to increase prices, the	3 trying to accomplish and how we're going to try to do it.
4	higher you're judged?	4 Q. Who was Mr. Baillie's predecessor?
5	A. Just don't tell anybody outside the industry	5 A. A gentleman by the name of Mr. Reynolds.
6	that. Yeah. Yeah.	6 Q. Now, when you arrived there, did you ever
7	MR. CROALL: I think most people have	7 hear any criticism of Mr. Reynolds?
8	figured that out.	8 A. Remarks. I had never met the man, so I -- I
9	A. Yeah, I know. The secret is out, isn't it?	9 don't know him.
10	The other thing is retention, which	10 Q. Did you ever hear any remarks in substance
11	basically means just the premium dollars and the number of	11 that were kind of like, you know, "Reynolds didn't do a
12	customers we're able to retain versus loss to the	12 very good job of leading this branch," or anything like
13	competition.	13 that, or anything remotely close to that?
14	And then it's new business.	14 A. Probably not that strong, no. I've heard
15	Then we have a measure that measures the	15 people voice frustrations that he was very tight on
16	collectibles of our premiums. We measure our commissions	16 expenses, that people made the comment that he was very
17	that we pay.	17 focused on growth for the sake of growth.
18	Q. Commissions paid to agents?	18 But, again, I mean, we had a lot of turnover
19	A. Correct, um-hmm (nodding head	19 since he left. So a lot of people in the office now don't
20	affirmatively).	20 know him. And like I said, I never even met him.
21	Q. The fewer commissions paid, the better?	21 Q. Now, how would you say the level of service,
22	A. The less commission we pay, the lower our	22 the condition of service was when you entered the branch?
23	expense ratio, correct.	23 A. My perception was that it wasn't very good.
24	Q. Okay.	24 Q. Okay.

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1 A. That at least in my area -- I can't speak
 2 for the rest of the branch -- that, you know, we were
 3 struggling to stay afloat, to keep up with agents'
 4 requests, with issuing policies. And, again, that was
 5 pretty much a function of staffing at the time.

6 Q. Did you attempt to improve the service?

7 A. Together with the operations manager, yes.

8 Q. Who was the operations manager?

9 A. At that time a gentleman by the name of John
 10 Breiner.

11 Q. Is he still the operations manager?

12 A. He transferred to our New York operation.

13 He was replaced by John LaFrance, who I mentioned earlier
 14 when I gave you the direct report list.

15 Q. John Breiner is now in New York?

16 A. Yes. Did I say Breiner? It's Bryer,
 17 B-r-y-e-r. Sorry about that.

18 Q. Is there somebody also by the name of
 19 Breiner?

20 A. Yeah. That's where I got mixed up.

21 Q. Okay. Now, what does John Breiner do -- I'm
 22 sorry -- what does Tom Bryer do?

23 A. He's our Indianapolis branch manager.

24 Q. Did he have any dealings with Doug Baillie

1 service goals, service standards, and our accomplishments
 2 in those areas at branch meetings.

3 Q. Okay. He would do that on a regular basis?

4 A. I do think that we added staffing in the
 5 service area.

6 I'm sorry? Your question?

7 Q. And he would do that on a regular basis in
 8 meetings?

9 A. Yeah. Um-hmm (nodding head affirmatively).

10 Q. Okay. And over time you were able to
 11 improve the level of service?

12 A. Um-hmm (nodding head affirmatively).

13 Correct.

14 Q. Now, how would you -- you say you increased
 15 the level of staffing within your part of the business?

16 A. That's allocated to my area, to support my
 17 area, yes.

18 Q. And Mr. Baillie was supportive of that?

19 A. I wouldn't have directly discussed that with
 20 him. That would have been the operations manager. I just
 21 saw that we did have additional resources. So my
 22 assumption is he would have, but I don't know that.

23 Q. Okay. Is that true also with just the level
 24 of resources that were provided with your organization

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1 that you know of?

2 A. He would have reported to Doug for a period.

3 Q. And then that reporting changed to somebody
 4 else?

5 A. Um-hmm (nodding head affirmatively). I
 6 don't recall the exact time when it changed, but it did
 7 change during Doug's tenure.

8 Q. Did you ever discuss Mr. Breiner with Mr.
 9 Baillie?

10 A. No.

11 Q. So you and the operations manager worked to
 12 improve the service of your area?

13 A. Um-hmm (nodding head affirmatively).

14 Q. Right?

15 A. Yes.

16 Q. Did Mr. Baillie support you in those
 17 efforts?

18 A. Yes. He -- I would say he did raise the
 19 visibility of the need to improve our service when I first
 20 came to the branch.

21 Q. That was one of his points of emphasis?

22 A. Yeah.

23 Q. How did he do that?

24 A. Visible to me, he would just highlight

1 that you didn't see Mr. Baillie as any kind of roadblock,
 2 but that would have been more of an operations issue
 3 between him and Mr. Bryer?

4 A. At that time, yeah.

5 Q. When did Mr. Bryer go to New York?

6 A. (No response.)

7 Q. Approximately. Was it before or after
 8 Baillie left?

9 A. Oh, no. It was way before. Probably early
 10 2000 maybe; late '99, early 2000.

11 Q. And who replaced him?

12 A. John LaFrance.

13 Q. Oh, I'm sorry. You said that. And then you
 14 and Mr. LaFrance worked together to continue to improve
 15 staff, resources, those kind of things?

16 A. Enforcing, more of a work flow productivity
 17 enhancement.

18 Q. And Mr. Baillie would have worked more
 19 directly with Mr. France with regard to making sure --
 20 allocating the necessary resources and making the staffing

21 approvals?

22 A. Yeah. That would not have been my job,
 23 that's correct.

24 Q. All right. Are there files maintained in

Page 57	Page 59
1 your office?	1 mean, we had to bring in new staff.
2 A. For?	2 Q. Obviously, additional staff?
3 Q. In your department, underwriting files.	3 A. Correct.
4 A. Yes, um-hmm (nodding head affirmatively).	4 Q. Okay. Were you criticized for the poor
5 Q. Would you describe the state of those	5 financial results?
6 underwriting files as not totally desirable when you	6 A. No.
7 arrived?	7 Q. Why not? Why wouldn't you be criticized for
8 A. Oh, yes. Yes.	8 poor financial results?
9 Q. How did that -- describe that for me, first	9 A. Because those results were the direct effect
10 of all.	10 of business decisions that my predecessor had made.
11 A. Well, there are several issues. We actually	11 Q. So that the poor financial results were
12 had transition to electronic files from paper files and	12 understood, as far as you knew?
13 the office -- and that would have happened through '98,	13 A. Expected.
14 and the office really hadn't done as good a job of doing	14 Q. Expected?
15 that.	15 A. Yeah. Some were mishaps. And we were hit
16 Also, we had an inadequate level of	16 by the tornado of April of '99, as an example. That cost
17 documentation of our files at the time. I would have	17 a lot of money. That was a mishap. But there were a lot
18 attributed it to the staffing situation and matter of	18 of problems with the state of -- you know, the quality of
19 prioritization by my predecessor.	19 underwriting and the quality of the book of business that
20 Q. Okay.	20 I was accountable for, that I inherited.
21 A. So it -- the state was not very good at the	21 Q. You inherited?
22 time.	22 A. Yes. It was -- I guess, if you were to try
23 Q. How about the profitability of your	23 to qualify it -- it was what we would call an
24 underwriting, commercial underwriting? How has that	24 "un-Chubb-like book," quote, unquote.
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1 changed over time since your arrival?	1 Q. Too much risk?
2 A. For my department?	2 A. We were assuming risks that personally I had
3 Q. Um-hmm (nodding head affirmatively).	3 never seen Chubb assume in any other operation I had been
4 A. As I arrived --	4 affiliated with.
5 THE WITNESS (to Mr. Croall): Is that okay	5 Q. Okay. Now, you say your predecessor. Would
6 to disclose?	6 you agree with me that Mr. Baillie arrived on the scene
7 MR. CROALL: Yeah.	7 shortly before you did?
8 A. The year end '98 results were, give or take,	8 A. Yeah. Yeah. A couple months probably.
9 around break even. So that was probably acceptable at	9 Q. He inherited the same sort of mess?
10 that time. They were very poor in 1999 and 2000.	10 A. That would be true.
11 Q. Okay. Why was that? You say the financial	11 Q. All right.
12 results got worse under your direction?	12 A. Yes. I do not even believe that my
13 A. That's correct.	13 predecessor and Mr. Baillie overlapped.
14 Q. Describe for me the reasons why the	14 Q. Okay. Do you know whether Mr. Reynolds is
15 financial results got worse.	15 still employed by the company?
16 A. We had very large claims.	16 A. No. No, he's not. He's not.
17 Q. Was part of the reason that you were -- that	17 Q. Do you know where he went? In the
18 you were kind of saddled with the job kind of almost like	18 Cincinnati office, or did he go somewhere else?
19 a turnaround operation?	19 A. I believe he went to the Hartford Insurance
20 A. Yes.	20 Company out on the East Coast.
21 Q. Because it was in shambles, you had to kind	21 Q. You think he left Chubb?
22 of turn around and expend a lot of money? Expend a lot of	22 A. Oh, yeah. Yeah. I'm sorry. Yes.
23 time? Expend a lot of time and money?	23 Q. Okay.
24 A. I don't know money. But, yeah, we had -- I	24 A. I think he went to work for the Hartford

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1 Insurance Company, but I believe he's no longer employed 2 there either. 3 Q. That's just kind of scuttlebutt you heard in 4 the industry? 5 A. Yeah. Yeah. Um-hmm (nodding head 6 affirmatively). 7 MR. CROALL: Is it time for a quick rest 8 break as long as you're pondering? 9 MR. FREKING: Oh, definitely. Great. 10 (At which time, a brief recess was taken 11 from 9:59 a.m. until 10:03 a.m.) 12 Q. Now describe for me a little bit about -- 13 what are the other areas? The other kind of profit 14 centers of the branch? 15 You know what I mean? You've got commercial 16 underwriting profit, right? 17 A. Correct. 18 Q. Where you're in charge of profitability? 19 A. That's mine. 20 Q. Right. What are the other what I would call 21 profit centers, if that's okay with you? 22 A. We have other commercial profit centers 23 other than my own. 24 Q. Okay.	1 directors and officers liability; employment practices 2 liability; fiduciary liability; crime insurance; workplace 3 violence insurance; kidnap and ransom insurance. 4 Q. These are all things that prudent employers 5 can do -- 6 A. Yeah. 7 Q. -- to protect themselves? 8 A. Yeah. 9 Q. That's kind of neat. 10 MR. CROALL: You should consider it. 11 The WITNESS (to Mr. Croall): Yeah. They'll 12 do professional liability for lawyers too. 13 Q. Okay. 14 A. That would be Jim Lash's area of 15 responsibility. 16 Then we have a surety operation, which I do 17 not believe reports to the branch manager. That's why I 18 left it off earlier. That gentleman is a gentleman by the 19 name of Mark Penell. It's P-e-n-e-l-l. And Lash is 20 L-a-s-h. 21 Q. Mark Penell, you don't think, reports 22 directly? 23 A. I don't think so. But, again, don't -- 24 Q. What's he do?
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1 A. We have a profit center that's called the 2 casualty department. They do specialized casualty 3 coverages, liability, workers' compensation, excess 4 umbrella. That would be Dave Corry's -- do you want me to 5 give you the managers at the same time to speed it up? 6 Q. Yeah. 7 A. It's -- David Corry is the manager. You 8 have the property department. Again, it's property 9 coverages only, no casualty coverages, no third-party 10 coverages. That's led by Kathleen Overlan. 11 We have a department that's called executive 12 protection. That would be -- it's another name I left out 13 earlier. Again, my apologies. That would be Jim Lash. 14 And I don't think I mentioned him earlier in Mr. Butler's 15 report list either. 16 Q. Okay. Was he there when Mr. Baillie was 17 there? 18 A. Yeah. 19 Q. What's he in charge of? Executive 20 protection? 21 A. Executive protection, correct. 22 Q. What's that mean? Bodyguards? 23 A. It's an office -- yeah. Yeah -- no. It's 24 -- well, to an extent. Financial bodyguards. It's	1 A. Surety. They provide bonds mostly for the 2 contractors. 3 And then we have a department called 4 financial institutions -- Andrew Emery is responsible for 5 that area -- in essence, providing the coverages my 6 department provides as well as the coverages Jim Lash's 7 area provides, but solely financial institutions, bank 8 institutions, stockbrokers, third-party administers, 9 things of that nature. 10 Q. More specialized? 11 A. It's a niche for it. 12 Q. Niche. That's a good word. 13 And Don Krohn is personal lines? 14 A. Personal lines. 15 Q. How about Taylor? 16 A. Jay Taylor is what we call a loss control 17 department. It's -- in laymen's terms, it's engineering 18 services that help underwriters make better decisions. 19 Q. So he kind of helps the other -- your other 20 peers? 21 A. Um-hmm (nodding head affirmatively). 22 Q. Yeah, and other peers? 23 A. Yeah. Well, he helps my department. I 24 would think we're his largest, if you want to call it that

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1 -- his largest customer. 2 Q. How about Barton? 3 A. He's the marketing manager. 4 Q. Haggard, we talked about? 5 A. She's human resources. 6 Q. Tazic? 7 A. Claims. 8 Q. And then Dan Krohn? Do you recall who he 9 replaced? 10 A. (No response.) 11 Q. Still not in your mind? 12 A. I told you I would get back to you. 13 Q. Well, that's all right. 14 A. Not yet. Darn it. This is really 15 irritating me, because I used to hang out with the guy. 16 Now I can't even remember his name. He actually went to 17 our Illinois office where I came from. God. This is 18 ridiculous. 19 Tim Dadik. Oh, finally. It's D-a-d-i-k. 20 Q. Okay. 21 A. I should probably mention that Mr. Dadik 22 replaced another gentleman during Mr. Baillie's tenure. 23 Q. Okay. 24 A. And his name really does escape me. He	1 A. It's a variety of things. It's -- I think 2 the quality of our staff is a lot better. I would say 3 that the marketplace has helped tremendously in terms of 4 affirming the insurance market, our ability to obtain 5 higher prices for the same coverages. 6 We did what we call the calling of our book, 7 which means we non-renewed business that was no longer 8 desirable for us; had a little bit more luck. 9 Q. Did Mr. Baillie -- you know, on the topic of 10 kind of getting rid of the bad business, did Mr. Baillie 11 support you in that regard or encourage you in that 12 regard? 13 A. We probably had more instances where we 14 argued over it than agreed on it. 15 Q. Okay. 16 A. I think Doug's preference was to find a way 17 to retain clients versus non-renewing them. 18 Q. Just correct me where I'm wrong on this. 19 Would you always try to retain customers by simply at 20 least trying -- first trying to raise their premiums? 21 A. Personally? No. 22 Q. Okay. Did Mr. Baillie think that that's 23 always kind -- that's sometimes -- rather than simply 24 non-renewing, would you agree with me that sometimes Mr.
1 would have left at some point, I think, in '99. 2 Q. Okay. I can ask Doug. Doug will probably 3 remember. 4 A. Yeah. 5 Q. What kind of familiarity did you have with 6 respect to, you know, how the other areas of business were 7 doing when you arrived? You know, some of the operations 8 of your peers? 9 A. When I arrived? 10 Q. Yeah. When you arrived, were they all real 11 healthy in terms, you know, financially? 12 A. I honestly don't recall, no. I know I had a 13 mess on my hands. I thought that was enough work to do 14 for one person. 15 Q. Okay. You don't remember. Have they -- did 16 you have like a feeling as to whether or not they were 17 profitable? 18 A. I think it was okay. 19 Q. Did you have a feeling as to -- your 20 business eventually turned around in 2001; is that fair to 21 say? 22 A. 2001 and 2002, yes. 23 Q. Okay. And you attribute that to the changes 24 that you were able to put in place? Better decisions?	1 Baillie would say, "Well, let's first try to raise their 2 premium and make it a fairer risk in light of their" -- 3 or, "make it a fairer price in light of their risk"? 4 A. (No response.) 5 Q. It was kind of a risk-assessment thing, 6 right? 7 A. Well, he -- his preference would have been 8 to retain customers. I would agree with that, yeah. 9 Q. And -- 10 A. Him and I had conversations where he would 11 actually make the point of telling me that these are 12 paying customers and that I should look at them that way. 13 Q. Okay. Did he say things along the lines of 14 what I just suggested, that, "Dieter, let's first look at 15 just raising their premiums"? 16 A. I don't know that he used specifically those 17 terms, but he did on occasion ask me to find a way, if 18 there was a way to retain a customer, yeah. 19 Q. Okay. And you -- you two just had kind -- 20 would you describe it as kind of a professional 21 disagreement? 22 A. Oh, yeah. That's -- those conversations go 23 on consistently -- 24 Q. Okay.
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<p>1 A. -- between underwriting managers and branch 2 managers.</p> <p>3 Q. Right, because there's almost an inherent 4 conflict, right? You're almost better off being able to 5 say you accurately predicted the risk a hundred percent of 6 the time and it's almost a cautious approach on your -- 7 makes you -- I'm not saying you do this, but if somebody 8 wanted to be cautious and just make sure that they make 9 themselves look the best as an underwriter, they can be 10 pretty conservative in their view, because then there's no 11 great losses.</p> <p>12 A. I -- if you ask me for my opinion, I 13 wouldn't agree with that.</p> <p>14 Q. Some underwriters could be -- could make a 15 mistake that way?</p> <p>16 A. Well, again, I don't know that it's a 17 mistake, if you are in the business of assuming risk, to 18 be conservative. You know, it has its pros and its cons.</p> <p>19 Q. Right.</p> <p>20 A. If you assume too much risk, you're going to 21 affect your revenues, but are you going to maintain profit 22 balances.</p> <p>23 Q. You have to have a reasonable level --</p> <p>24 A. You have to have a balance.</p>	<p>1 A. And we felt -- when I say we, I mean the 2 department and my -- the underwriters and myself felt 3 that, more often than not, it appeared that we had to 4 justify ourselves internally first before we could deliver 5 a message to our agents that we felt was the right 6 business decision and the right underwriting decision to 7 take.</p> <p>8 Q. You had to justify things internally to 9 Chubb?</p> <p>10 A. Yes, to the marketing area.</p> <p>11 Q. To the marketing area?</p> <p>12 A. That you were referring to, um-hmm (nodding 13 head affirmatively).</p> <p>14 Q. Can you give me an example of that?</p> <p>15 A. (No response.)</p> <p>16 Q. Just generally, maybe not a specific 17 example.</p> <p>18 A. There were a lot of examples of that.</p> <p>19 Q. Just give me one or two that you think are 20 fair.</p> <p>21 A. Jeez. We had an account -- the name escapes 22 me -- where we had decided, because of unacceptable 23 conditions, to part ways with the risk, and we've had to 24 have several conversations in the branch explaining why we</p>
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<p>1 Q. -- of conservatism?</p> <p>2 A. You have to have a balance of assuming risk 3 and also trying to grow your business, yeah.</p> <p>4 Q. Okay. And that's the -- finding that 5 delicate balance is where people --</p> <p>6 A. It's not easy.</p> <p>7 Q. -- can disagree?</p> <p>8 A. Yeah. Oh, yeah. I mean, I can play 9 Monday-morning quarterback on every single business 10 decision an underwriter has ever taken and come back with 11 a better way to do it.</p> <p>12 Q. Okay. How would you describe the manner in 13 which the effort of the marketing area assisted you in 14 turning around the profitability of your area?</p> <p>15 A. During Mr. Baillie's tenure?</p> <p>16 Q. Well, during, while Mr. Baillie was there.</p> <p>17 A. Insufficient.</p> <p>18 Q. Okay. Explain to me why you thought it was 19 insufficient.</p> <p>20 A. More often than not, the perception of 21 myself and the employees in my department was that the 22 difficult messages had to be delivered by us versus the 23 marketing group.</p> <p>24 Q. Okay.</p>	<p>1 were doing this, and, you know, justifying our business 2 decision, and we felt second-guessed.</p> <p>3 Q. Okay. How does marketing interact with a 4 decision like that? That's what I'm trying to figure out.</p> <p>5 A. Well, I guess marketing at that point more 6 or less takes the agent's view that, you know, "Why do we 7 have to do this? Why can't we stay on the risk?" And our 8 -- you know, we have the underwriting view that we should.</p> <p>9 Q. When you're having these professional 10 disagreements with your colleagues over marketing, okay, 11 was there any role for Mr. Baillie to play?</p> <p>12 A. In my opinion?</p> <p>13 Q. Yes.</p> <p>14 A. Again, I don't know. I did not have access 15 to his direct goals or mandates. In my opinion, I would 16 have liked -- personally, I would have liked to have seen 17 him support us in the underwriting area more in those 18 instances.</p> <p>19 Q. And the marketing people probably would have 20 preferred if he supported them more?</p> <p>21 A. I can't speak for them.</p> <p>22 Q. When you're having these professional 23 disagreements with your colleagues over marketing, did you 24 ever see Mr. Baillie kind of interject himself into it and</p>

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Korte (2/27/03)

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<p>1 try to make a decision for the branch?</p> <p>2 A. Well, he couldn't do that, because Mr.</p> <p>3 Baillie didn't have what we call underwriting authority.</p> <p>4 Q. Okay. Explain to me how Mr. Baillie did not</p> <p>5 have underwriting authority.</p> <p>6 A. Well, it's simply he didn't have any</p> <p>7 authority granted by the company to make underwriting</p> <p>8 decisions. That is up to the underwriting managers and</p> <p>9 the underwriters, branch managers, marketing managers.</p> <p>10 Human resources managers have no underwriting authority in</p> <p>11 our organization.</p>	<p>1 So, currently, Mr. Butler is the regional</p> <p>2 manager. The zone manager is Mr. Szerlong.</p> <p>3 We have the same structure for the</p> <p>4 underwriting departments. So I am the regional manager</p> <p>5 for what we call the Ohio Valley Region, and then I -- the</p> <p>6 next level above me is the manager for the northern zone,</p> <p>7 and his name is John Gibson. During Mr. --</p> <p>8 Q. Was he also there while Mr. Baillie was</p> <p>9 there?</p>
<p>12 Q. And so who does have the ultimate authority</p> <p>13 on underwriting with respect to your area?</p>	<p>10 A. No. During Mr. Baillie's tenure, the</p> <p>11 gentleman was Chip Hamann, H-a-m-a-n-n.</p>
<p>14 A. If it is within -- falls within my area,</p> <p>15 unless it is a very high hazard risk, a very large risk,</p> <p>16 it would be either with myself or the underwriters.</p>	<p>12 Q. Who would you describe as your immediate</p> <p>13 boss?</p>
<p>17 Again, this is a natural progression.</p>	<p>14 A. Mr. Baillie at the time.</p>
<p>18 Q. Okay. You're saying Mr. Baillie as the</p> <p>19 branch manager did not have the right to override one of</p> <p>20 your decisions?</p>	<p>15 Q. Now what role did Mr. -- did Mr. Hamann play</p> <p>16 any role in evaluating your performance?</p>
<p>21 A. No, he would not be able to do that.</p>	<p>17 A. Yeah. That's -- again, it's a little</p>
<p>22 Q. Is there anybody in the company who would</p> <p>23 have the right to override one of your decisions?</p>	<p>18 complex, but our structure is what we call a matrix or</p> <p>19 dual accountability. I was a direct report to Mr.</p> <p>20 Baillie. So what that meant is Mr. Baillie would</p>
<p>24 A. People with more underwriting authority than</p>	<p>21 administer my performance review because he would observe</p> <p>22 me day to day. He would observe me how I manage people,</p> <p>23 how I conducted myself in the marketplace, and also my</p> <p>24 results directly impacted his branch's results.</p>
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<p>1 I would -- could -- I should say could. I'm sorry.</p>	<p>1 I would also indirect report to at that time</p>
<p>2 Q. Who would that be?</p>	<p>2 Mr. Hamann, now Mr. Gibson. They provide me with</p>
<p>3 A. Well, the next level up above me would be a</p> <p>4 zone underwriting officer.</p>	<p>3 underwriting authority. They would give Mr. Baillie</p> <p>4 feedback -- and now Mr. Butler -- as to how I rank with</p>
<p>5 Q. Okay.</p>	<p>5 respects to my peers and other managers in their area.</p>
<p>6 A. In my area, currently, that's a gentleman by</p> <p>7 the name of John Gibson, G-i-b-s-o-n. During Mr.</p> <p>8 Baillie's tenure, that gentleman was a gentleman by the</p> <p>9 name of Chip Hamann. I'm just speaking for mirror areas.</p> <p>10 We have those for every underwriting department. It's our</p> <p>11 organizational structure.</p>	<p>6 And at this point in time the zone managers</p> <p>7 also are responsible for administering the incentive</p> <p>8 compensation. During Mr. Baillie's tenure, that was</p> <p>9 administered by Mr. Baillie. Now that's administered by</p> <p>10 the zone officers through the underwriting departments.</p>
<p>12 Q. Okay. I'm sorry, Dieter. I'm kind of slow</p> <p>13 sometimes here.</p>	<p>11 Q. Would that be Szerlong?</p>
<p>14 The guy higher up than you in the</p> <p>15 underwriting structure, is there somebody regionally?</p>	<p>12 A. No; that would be Mr. Gibson for me.</p>
<p>16 A. It would probably be best if I described to</p> <p>17 you the setup.</p>	<p>13 Q. So while Mr. Baillie was your boss, you had</p>
<p>18 Q. Okay. That would be great.</p>	<p>14 dual accountability?</p>
<p>19 A. From the bottom up, we have the production</p> <p>20 offices, which report into a branch. Then the next level</p> <p>21 above a branch is what is called a regional office.</p> <p>22 Cincinnati is a regional office.</p>	<p>15 A. Correct.</p>
<p>23 And then above the regional office is what</p> <p>24 we call a zone.</p>	<p>16 Q. You were accountable to Hamann and Baillie?</p>
	<p>17 A. Right. But Baillie would administer all my</p>
	<p>18 performance reviews and administer my entire compensation.</p>
	<p>19 Q. And he would have more day-to-day contact</p>
	<p>20 with you, obviously?</p>
	<p>21 A. That's correct.</p>
	<p>22 Q. Hamann was located where?</p>
	<p>23 A. He was located in the Detroit office. The</p>
	<p>24 zone office is in Chicago. But Mr. Hamann had previously</p>

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1 been in Detroit. So they decided to leave him there and 2 not ask him to move. 3 Q. Was Gibson in Chicago? 4 A. Yes. 5 Q. And Szerlong is in Chicago? 6 A. Correct. And, again, the position has just 7 changed slightly, as I mentioned earlier. During Mr. 8 Baillie's tenure, he would have administered all of my 9 compensation. Now my incentive compensation is 10 administered by Mr. Gibson, and Mr. Butler does my 11 performance review and my raises. 12 Q. Yeah. 13 A. So it's a little bit different than it used 14 to be. 15 Q. Do you know whether Mr. Baillie had 16 more overall responsibilities than you did? 17 A. What do you mean? 18 Q. In other words, did Mr. Baillie have a 19 broader range of responsibility than you did? 20 A. Yes. 21 Q. And he had more subordinates to deal with 22 than you did? 23 A. When you say subordinates, you mean direct 24 reports or people who would have been below him overall?	1 MR. FREKING: That's fine. 2 MR. CROALL: Given that designation as 3 confidential, you can go ahead and answer. 4 THE WITNESS (to Mr. Croall): I can answer? 5 MR. CROALL: Yes. 6 A. Yes. 7 Q. I probably got most of the stuff in, anyway, 8 someplace, but I'm looking for your knowledge. I probably 9 have a document someplace. 10 A. Okay. The internal was pretty dramatic. 11 Q. Okay. 12 A. I don't know the exact numbers, but I think 13 you could describe it as a 180-degree turnaround. 14 Q. Okay. 15 A. And we all take great pride in that. 16 Q. Are you saying between the time of Baillie's 17 arrival and his departure? 18 A. Between his arrival and departure? Well, 19 year-end numbers, which is really what we measure it by, 20 we had improved after his departure. 21 Q. Okay. 22 A. Which would have been 2001 year-end numbers. 23 That was the big turnaround numbers compared to the 2000 24 year-end turnaround numbers.
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1 Q. Direct and indirect. 2 A. Yes. Oh, yes. 3 Q. Okay. Did you succeed in kind of turning 4 the commercial lines around? Is that accurate to say? 5 A. Our department did, yes, um-hmm (nodding 6 head affirmatively). Knock on wood. 7 Q. Yeah. Do you know whether or not the branch 8 was successful in turning its financial results around? 9 A. Um-hmm (nodding head affirmatively). 10 Q. Yes? 11 A. Yes. I'm sorry. Yes. 12 Q. Do you know anything about the degree -- can 13 you -- do you have any access to the branch's 14 profitability numbers? 15 A. Yes, I do, on -- only a mouse click away. 16 Q. Do you recall any of the financial results 17 and how the branch itself turned around? 18 A. Yes, I do. 19 Q. Okay. Describe those for me as best you 20 can. 21 MR. CROALL: Yeah. Randy, I think we've at 22 least got a protective order under discussion, and 23 I'll designate a confidentiality on the assumption 24 we can ultimately reach some agreement on that.	1 Q. Okay. Now, is your business like some other 2 businesses, where you can't have a big turnaround 3 overnight, can you? 4 A. No, you can't. 5 Q. You have to lay the groundwork for a number 6 of months or years? 7 A. That's correct. 8 Q. So -- 9 A. For both positive and negative results? 10 Q. Right. Right. So financial results that 11 you're achieving even now are the results of things you 12 have done in the past, be it weeks, months, or years? 13 A. For the most part, I would agree with that. 14 Q. Okay. Tell me how -- what do you mean by -- 15 you said something -- you used some phrase like, "And we 16 took great pride in this 180-degree turnaround." 17 A. Yeah. 18 Q. How did you sense that people took great 19 pride in that? 20 A. Well, I will tell you, overall, my 21 perception of our organization is that people are 22 goal-oriented. Everybody knows that profitability is our 23 number-one corporate value, and people monitor -- I mean, 24 we all monitor our progress on a monthly basis, and people

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1 discuss it in the branch and they, you know, feel good
 2 about, obviously, making a profit versus losing money for
 3 the organization, the shareholders.
 4 Q. And so morale -- morale just improves
 5 generally --
 6 A. Yes.
 7 Q. -- when the financial results get better?
 8 A. Yes, absolutely.
 9 Q. You say 2001 was the big turnaround year?
 10 A. Uh-hmm (nodding head affirmatively).
 11 Q. Was that kind of widely known as the year
 12 was going on?
 13 A. Yeah. I would say people recognized that.
 14 When I answer those things, I'm making assumptions based
 15 only my observations, but yeah.
 16 Q. You get periodic financial reports?
 17 A. Oh, yeah, yeah.
 18 Q. How often are financial reports available to
 19 somebody like you?
 20 A. Like I said, they're a mouse click away and
 21 they're updated; the profitability reports are updated
 22 monthly. Then I will see the company reports on a
 23 quarterly base basis.
 24 I also have other measures that I can access

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1 on a daily basis, but those will not be profitability
 2 related. Those would be more premium growth, service
 3 things.
 4 Q. And the things that you can access on a
 5 daily basis give you kind of a -- maybe a sense for how
 6 profitability is doing because they're components?
 7 A. No; how premium revenue growth is going more
 8 than profitability.
 9 Q. Okay.
 10 A. Profitability is monthly.
 11 Q. And so your experience kind of matters. You
 12 don't have access on a daily basis; you just have to wait
 13 for the month end?
 14 A. I believe that there is now a system that
 15 lets you monitor it more frequently. But the way I
 16 monitor it is on a monthly basis, that's correct.
 17 Q. Were you regarded -- was there an
 18 underwriting branch manager in Cincinnati?
 19 A. I -- I have never heard of a title like
 20 that, no.
 21 Q. The reason I ask the question is this
 22 Breiner --
 23 A. Okay.
 24 Q. Let me just get my notes on him for a

1 second.
 2 A. Can we take a one-minute break while you
 3 check your notes?
 4 Q. Oh, yeah, sure. Definitely. That will
 5 help.
 6 (At which time, a brief recess was taken
 7 from 10:31 a.m. until 10:36 a.m.)
 8 Q. Okay. Did Mr. Baillie ever provide you any
 9 kind of constructive criticism that you can recall, or
 10 provide you with any sort of advice as to how you should
 11 operate?
 12 A. Yes.
 13 Q. Can you describe that for me?
 14 A. It was usually part of my performance
 15 reviews.
 16 Q. Okay.
 17 A. Or when I -- I would solicit feedback.
 18 Generally, Mr. Baillie, as best I recall, was very pleased
 19 with my operation, with the way I was managing people.
 20 His advice and suggestions were more in what we call
 21 managing up, controlling my temper.
 22 Q. I'm sorry, did you say controlling?
 23 A. Managing up in the organization, controlling
 24 my temper. He would call it, "Don't wear your emotions on

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<p>1 that?</p> <p>2 A. Oh, no no, no. It was feedback I solicited.</p> <p>3 Q. Okay. And you thought it was fair?</p> <p>4 A. Yeah. It's things I recognized on my</p> <p>5 shortcomings myself, yeah.</p> <p>6 Q. Okay. How many people reported directly to</p> <p>7 you, approximately?</p> <p>8 A. At this point in time?</p> <p>9 Q. No; when Baillie was the boss.</p> <p>10 A. It really did vary because we did continue</p> <p>11 to have some turnover. If I tell you at the peak, that's</p> <p>12 probably the best time frame.</p> <p>13 Q. Okay.</p> <p>14 A. It would have been three in Cincinnati, two</p> <p>15 in Columbus, three in Louisville -- eight -- nine -- I'm</p> <p>16 sorry. Nine. That would have been the highest count.</p> <p>17 Q. And then did you have anybody in Cleveland</p> <p>18 reporting to you?</p> <p>19 A. Not directly. It's -- I'm technical</p> <p>20 support. My feedback is evaluating that person's</p> <p>21 performance. I'm trying to help and coach and do some</p> <p>22 training, but I don't administer that person's performance</p> <p>23 review.</p> <p>24 And the same for Indianapolis. I'm a</p>	<p>1 A. Absolutely.</p> <p>2 Q. And you and Mr. Baillie communicated in your</p> <p>3 annual performance reviews?</p> <p>4 A. Um-hmm (nodding head affirmatively).</p> <p>5 Q. Did he provide you feedback from time to</p> <p>6 time throughout the calendar year?</p> <p>7 A. Not official. There might have been a</p> <p>8 comment or, you know, a quick chat, but no formal.</p> <p>9 Q. Nothing formal?</p> <p>10 A. Sit-down meetings that I can recall. I</p> <p>11 might have asked him for feedback or he might have, as a</p> <p>12 coaching point might have told me something, but...</p> <p>13 Q. Now, did he sometimes -- was Mr. Baillie in</p> <p>14 a position ever to provide you feedback from other people?</p> <p>15 In other words, not just how he reviewed your management</p> <p>16 style or anything like that, but also feedback from</p> <p>17 others?</p> <p>18 A. Yes.</p> <p>19 Q. Can you explain that, to what degree you did</p> <p>20 that?</p> <p>21 A. He had several ways of doing that. He would</p> <p>22 solicit my peers' feedback on me anonymously, and he would</p> <p>23 do that for every manager. So he would ask me to provide</p> <p>24 him feedback on all the managers in our office, and he</p>
<p>1 resource. And the people, the two managers, one in each</p> <p>2 office -- I provide feedback to their bosses on their</p> <p>3 performance on an annual basis, and I'll also have</p> <p>4 sit-down meetings with their bosses and just discuss</p> <p>5 overall what my opinion is.</p> <p>6 Q. Now, maybe this relates to the fact to your</p> <p>7 dual accountability scheme, but did Baillie, Mr. Baillie,</p> <p>8 have any role with respect to giving of advise as to how</p> <p>9 you kind of did your underwriting job? Or did he just not</p> <p>10 have the expertise to do that?</p> <p>11 A. Not so much, not the technical piece of my</p> <p>12 underwriting job; more the results that it produces.</p> <p>13 Q. Okay.</p> <p>14 A. So, I mean, I don't know how to properly --</p> <p>15 his feedback was more geared towards the marketing of our</p> <p>16 underwriting decisions, I guess, not so much the technical</p> <p>17 approach to it.</p> <p>18 Q. Okay.</p> <p>19 A. And that's -- I think that's pretty</p> <p>20 standard. I mean, that's expected that, you know, as an</p> <p>21 underwriting manager, that I know how to do that, but that</p> <p>22 I'm being held accountable for the results it produces.</p> <p>23 Q. Okay. The same way -- and Butler kind of</p> <p>24 operates in the same manner?</p>	<p>1 would do the same thing; he would ask them for feedback on</p> <p>2 me and he would share that anonymously with me. Without</p> <p>3 saying who said what, he would say, "Here's how your peers</p> <p>4 view you."</p> <p>5 He would also tell me on occasion how Chip</p> <p>6 Hamann at the same time would rank me in the zone with</p> <p>7 respect to my peers there and share observations that both</p> <p>8 Indianapolis and the Cleveland branch managers had made of</p> <p>9 myself.</p> <p>10 Q. Okay.</p> <p>11 A. What they thought of me, my performance, my</p> <p>12 involvement, the adequacy of that.</p> <p>13 Q. Do you think he did that on enough of a</p> <p>14 regular basis to satisfy you?</p> <p>15 A. That's kind of a -- would I have preferred a</p> <p>16 little bit more often? Maybe.</p> <p>17 Q. Okay. Is that called 360-degree feedback?</p> <p>18 A. No, I don't think officially that -- I don't</p> <p>19 think my position has that. I mean, that would have meant</p> <p>20 that, 360 degrees, he would have had to ask every one of</p> <p>21 my direct reports as well, and I don't believe he did</p> <p>22 that.</p> <p>23 Q. Okay. Did you get occasion to provide</p> <p>24 feedback on Mr. Baillie's performance?</p>

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<p>1 A. He had anonymous questionnaires that he 2 would circulate. I think it was on a somewhat regular 3 basis throughout the branch. I don't believe I ever 4 filled one out, but I would -- when we had sit-downs, I 5 would share with him an observation or comment or things I 6 would like him to do more or less.</p> <p>7 Q. Why did you elect not to fill out those 8 feedback forms?</p> <p>9 A. I don't even recall at the time why I 10 didn't. I didn't.</p> <p>11 Q. Do you recall, do you have any understanding 12 of your peers, your colleagues or subordinates or 13 managers, why they did or did not fill out those things 14 for him?</p> <p>15 A. No, I do not.</p> <p>16 Q. Now, did you -- he would solicit your 17 feedback on other people, right?</p> <p>18 A. Yes. He would ask me how I perceive my 19 peers in the branch, the other managers in the branch.</p> <p>20 Q. And the same way he was asking them about 21 you?</p> <p>22 A. That's correct, on an annual basis.</p> <p>23 Q. Did you find that to be kind of a valuable 24 tool?</p>	<p>1 didn't fill those out.</p> <p>2 Q. Now, how about the -- we've talked about -- 3 and maybe you've already answered this question and I 4 don't even know it, but we talked about the profitability 5 and the 180-degree turnaround.</p> <p>6 A. Um-hmm (nodding head affirmatively).</p> <p>7 Q. Was that just in -- was that for the 8 Cincinnati office? Is that for the branch? Is that for 9 Louisville, Columbus, Cleveland, Indianapolis?</p> <p>10 A. It would definitely be for the way we --</p> <p>11 THE WITNESS (to Mr. Croall): I can answer 12 that?</p> <p>13 MR. CROALL: Yes.</p> <p>14 A. It would definitely be for the way the 15 Cincinnati branch is measured and the way our report is 16 produced. The Cincinnati branch includes Louisville and 17 Columbus.</p> <p>18 Q. Okay.</p> <p>19 A. You can also access those two branches 20 separately. The same, I think, can be said for our 21 region, which included Cleveland and Indianapolis, and I 22 think it's an overall theme in our company that the 23 corporate results and most branches' results improved in 24 those time frames.</p>
<p>1 A. No.</p> <p>2 Q. And why not?</p> <p>3 A. Because I don't think I personally 4 understand enough of the business issues and the people 5 management issues my peers are facing. And I would give 6 them the feedback he solicited, but I personally think 7 it's very superficial feedback, just based on observations 8 in the branch.</p> <p>9 Personally, my concern with that type of 10 feedback is that it would result in a kind of like, just 11 like kind of feedback versus truly whether somebody is a 12 good or not a good employee.</p> <p>13 Q. You just don't feel like you're --</p> <p>14 A. No.</p> <p>15 Q. -- really in a position to measure how 16 they're doing their job?</p> <p>17 A. And I actually believe I shared that with 18 him at one time.</p> <p>19 Q. Is that one reason why you maybe didn't 20 provide feedback on the surveys about Mr. Baillie's 21 performance?</p> <p>22 A. No. No.</p> <p>23 Q. Okay.</p> <p>24 A. Like I said, I don't even recall why I</p>	<p>1 Q. Okay. So the region includes Indianapolis, 2 Cleveland?</p> <p>3 A. Correct.</p> <p>4 Q. Louisville, Columbus, Cincinnati?</p> <p>5 A. Correct.</p> <p>6 Q. The branch is Louisville, Columbus, 7 Cincinnati?</p> <p>8 A. Correct.</p> <p>9 Q. And Indianapolis has since left the region?</p> <p>10 A. No. It's still part of the region.</p> <p>11 Q. It is still part of the region?</p> <p>12 A. Yes.</p> <p>13 Q. Just Mr. Breiner left?</p> <p>14 A. No. Mr. Breiner is still there. He just 15 doesn't report to the Cincinnati branch manager.</p> <p>16 Q. Okay.</p> <p>17 A. Same for the Cleveland branch manager. They 18 used to, but the structure has changed slightly. They 19 still participate in our region. We still provide the 20 technical support. I still provide the feedback on the 21 managers, but the branch managers no longer report, 22 directly report to the Cincinnati branch manager.</p> <p>23 Q. Okay.</p> <p>24 A. And I believe that changed during Mr.</p>

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1 Baillie's tenure. I'm pretty sure it did.	1 A. That would have been Mr. Szerlong.
2 Q. Now, you have somebody named -- I think his	2 Q. So Szerlong had a -- wore two hats?
3 name is -- strike that. How would you describe the zone	3 A. Um-hmm (nodding head affirmatively). That's
4 Mr. Szerlong is in charge of?	4 pretty much common practice in the company.
5 A. When you say how would I describe it --	5 Q. So he has responsibility for his region, but
6 Q. What geographical area does it encompass?	6 also the zone?
7 A. It's pretty large. It's the northern	7 A. Um-hmm (nodding head affirmatively).
8 Midwestern states. I could attempt to list all the	8 Q. Was Mr. Shannahan the regional manager of
9 offices. It would be Cleveland; Cincinnati; Indianapolis;	9 the Midwest during Mr. Baillie's tenure?
10 Detroit; Chicago; the Illinois branch, which is in the	10 A. Yes.
11 Chicago suburbs; Milwaukee; Kansas City; St. Louis;	11 Q. Now, do you know where Mr. Butler worked
12 Des Moines; and then obviously we have the Louisville and	12 previous to becoming the regional manager?
13 Columbus production branch as part of Cincinnati; and then	13 A. Yes. He worked in Harrisburg, our
14 there is a production branch in Grand Rapids, Michigan,	14 Harrisburg office.
15 that is part of the Detroit office.	15 Q. Do you know what role he performed?
16 Q. And do each of these offices have a branch	16 A. He was the branch manager.
17 manager, to your knowledge?	17 Q. And what zone is that in, if you know?
18 A. All but the three production offices, and	18 A. I believe that's the Mid Atlantic zone.
19 the three production offices have what we call a	19 Q. Now, do you know of any other -- have you
20 production leader. I don't think I left any out. I think	20 heard -- and I'm not saying whether you know this to be
21 I caught them all.	21 true, but have you heard anything about any other branch
22 Q. Okay. And now within this northern zone,	22 managers who have been let go by Chubb other than Mr.
23 Cleveland, Cincinnati, and Indianapolis are part of a	23 Baillie?
24 region together?	24 A. I mean, I've seen branch managers leave.
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1 A. Yes. They're the Ohio Valley region.	1 Q. Who are some of the branch managers you've
2 Q. Okay. Are there other regions?	2 seen leave over the last few years? Obviously, there were
3 A. Yeah. There's the -- I think it's called	3 two people in Cincinnati who have left, Reynolds and
4 the Midwest region. That would be Detroit, Milwaukee, and	4 Baillie.
5 Minneapolis. And then there's the Chicago region, which	5 A. Well, then, prior to Mr. Reynolds, there was
6 would be the remaining offices.	6 another gentleman. His name escapes me now.
7 Q. So Chicago, the suburbs of Chicago,	7 Again, I've never met these people. I don't
8 Illinois?	8 know the reason for their departures.
9 A. Illinois office, Des Moines, Kansas City,	9 Q. Okay.
10 and St. Louis.	10 A. There was a gentleman in the Illinois office
11 Q. Three regions?	11 who left prior to me going to Illinois. It's -- it
12 A. Um-hmm (nodding head affirmatively).	12 happens. We have turnover.
13 Q. Okay. And who was the regional manager of	13 Q. In the last few years, can you think of
14 -- is this called the Detroit region?	14 anybody since like calendar year 2001 other than Mr.
15 A. Yeah -- well, the Midwest.	15 Baillie?
16 Q. Midwest?	16 A. I don't know.
17 A. Midwest, I believe is the name.	17 Q. Okay.
18 Q. Okay.	18 A. No.
19 A. But it's out of Detroit, correct.	19 Q. How would you describe the level of
20 Q. Who is -- who was in charge of that?	20 profitability of the Cincinnati branch in 2001 in terms of
21 MR. CROALL: Is it all right to answer?	21 dollars and cents?
22 MR. CROALL: Sure.	22 MR. CROALL: Again, that's confidential, but
23 A. Tim Shannahan. It's S-h-a-n-n-a-h-a-n.	23 you can answer if you know.
24 Q. And how about the Chicago?	24 A. I don't know the exact amount. I would

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1 guess. Is that all right to do? 2 Q. We don't need the exact. 3 MR. CROALL: A guess is all right. 4 A. 20, 25 million dollars maybe. 5 Q. Okay. 6 A. Somewhere in that neighborhood. 7 Q. And how about in 2002? 8 A. A little less, but pretty close to that 9 amount. 10 Q. And in 2003, do you know anything yet as to 11 how you're doing? 12 A. It's only been a month so far. 13 Q. Are there any trends indicating -- do you 14 have a sense it's going to be an up year? 15 A. Yeah. I think it's going to be a pretty 16 good year. 17 Q. You think that -- you think the level of 18 profit is going to increase like over 2001 or do you think 19 it's going to -- 20 A. I'd like for it to increase. I think 21 there's a chance of that happening. 22 Q. Now, is there a difference between the 23 branch profitability and underwriting profitability? 24 A. No. I mean, it's the same measurement.	1 A. Yes. For my department? 2 Q. Yes. 3 A. That would have been three or four million 4 dollars. 5 Q. Did that improve in 2002 also? 6 A. A little bit, yeah, light improvement. 7 Q. And, 2003, you're hoping for another 8 improvement? 9 A. Um-hmm (nodding head affirmatively). I 10 expect one. 11 Q. Do you recall something called the uninsured 12 crisis? 13 A. Oh, yes. 14 Q. How would you describe what the uninsured 15 crisis was to a lay person? 16 A. I could be a smart alec, but I'm not going 17 to be. It was a crisis that developed out of a Supreme 18 Court decision. 19 Q. Okay. 20 A. Actually, a series of Supreme Court 21 decisions that made it extremely difficult to profitably 22 underwrite automobile coverages in the State of Ohio. 23 Q. Okay. Do you know, did you have any 24 familiarity with what role Mr. Baillie made in connection
1 It's, you know, our earned premiums, and you subtract the 2 expenses we pay and our losses we pay, and the remainder 3 is all the remaining profit. That's the same formula for 4 each department and the overall branch. 5 Q. Would the numbers be the same, though? 6 A. No. 7 Q. Is there -- 8 A. I mean, they're obviously different. 9 Q. Okay. 10 A. I mean, my department's numbers are 11 different than the branch's numbers. 12 Q. What was the underwriting profit in like 13 2001, ball park? 14 A. All right. I don't think I'm in sync with 15 you right now. 16 Q. Can you give me the branch profitability in 17 2001? 18 A. Yes. 19 MR. CROALL: Are you asking just for his 20 department? 21 MR. FREKING: Yes. The underwriting. 22 A. I'm sorry. 23 Q. If someone said what is the underwriting 24 department?	1 with that crisis? In other words, what his role was in 2 helping to deal with this problem? 3 A. I don't know what the company specifically 4 asked him to do. I know that Mr. Tazik and I, together 5 with our home office, worked on implementing -- you know, 6 coming up with underwriting policy language, pricing 7 techniques to, I guess, quote, unquote, "combat the 8 problem." 9 Q. Okay. 10 A. I believe Mr. Baillie had been asked to 11 pursue with others the political area, through, you know, 12 various associations, to influence, maybe bring some sense 13 to people in Columbus. 14 Q. Bring some sense to people from the 15 insurance company's perspective? 16 A. Yeah. I apologize. I'm pretty partial on 17 that issue. 18 Q. Yeah, you probably are, which is 19 understandable. 20 You said you and Mr. Tazik played a role in 21 making underwriting suggestions? 22 A. Claims suggestions, underwriting 23 suggestions, tracking results, trying to assess the 24 exposure to the company, yes.
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<p>1 Q Did Mr. Baillie play a role with like 2 working with you in that regard, or is that something you 3 would have done with Hamann or someone else?</p> <p>4 A I mean, Hamann was obviously involved as 5 well. It's something that the idea is that it should have 6 been done at all levels, you know, in concert, yes.</p> <p>7 Q Do you know anything about what Mr. Baillie 8 did on the medical level?</p> <p>9 A No, I don't.</p> <p>10 Q So you don't know whether --</p> <p>11 A Other than, I believe, some of that was 12 delegated to Mr. DeLong in Cleveland -- that's D-e-L-o-n-g 13 -- but I don't know how much of that.</p> <p>14 Q Now, was Mr. DeLong -- what was his role?</p> <p>15 A He's the Cleveland branch manager.</p> <p>16 Q Okay. Now tell me about, in the fall of 17 2001, this meeting or conversation you had with Mr. 18 Baillie at the convention in Cincinnati.</p> <p>19 A Okay.</p> <p>20 Q This is obviously after, long after -- well, 21 a few months after --</p> <p>22 A Right.</p> <p>23 Q -- he's been terminated, right?</p> <p>24 A Right.</p>	<p>1 he had interviewed together -- I believe he ran into a 2 former branch manager of mine who was also interviewing 3 with that company at the time, and I kind of jokingly made 4 the comment to him about that must have been "a love 5 fest," quote, unquote, about Chubb.</p> <p>6 And the conversation continued, and he made 7 a comment to me to the effect that, because I had worked 8 for that branch manager, Mr. Szerlong didn't like me, 9 because Mr. Szerlong and that branch manager apparently 10 didn't see eye to eye while both of them worked at Chubb.</p> <p>11 So the gentleman's name is Simmons. And he 12 said, "You're one of Simmon's people, so you know 13 Szerlong," something to the effect, "Szerlong doesn't like 14 you."</p> <p>15 Q So you had previously worked for Simmons?</p> <p>16 A Yes. In the Detroit office, he was my first 17 branch manager.</p> <p>18 Q Oh, I see.</p> <p>19 A And at the same time Mr. Szerlong would have 20 been the Chicago branch manager.</p> <p>21 Q Okay. Anything else you remember him saying 22 about Chubb?</p> <p>23 A Yeah.</p> <p>24 Q He talked about Chubb?</p>
<p style="text-align: center;">Page 102</p> <p>1 Q Okay. Tell me what you recall about this 2 charity event that Mr. Baillie was volunteering his time 3 at.</p> <p>4 A He was manning a booth in front of the 5 convention room, and I walked up with one of my 6 underwriters. And we more or less ran into him and 7 exchanged pleasantries: How are you? How are things 8 going?</p> <p>9 Mr. Baillie asked me a lot about the 10 branch's results. You know, he made a comment to me that 11 -- you know, I described to him the state of the 12 marketplace, which was a lot more favorable in 2001 than 13 it had been in previous years, and we were pretty 14 successful in increasing our prices; we stand to see some 15 nice new business opportunities.</p> <p>16 And I mentioned that to him and, you know, 17 mentioned to him that our profit picture was improving.</p> <p>18 And he made a comment to me to the effect: 19 "Yeah, I laid all the groundwork and then they kicked me 20 out the door."</p> <p>21 And, you know, just these things and just 22 the perception he appeared to me to be pretty bitter.</p> <p>23 We also had a conversation about an 24 interview that he had with another insurance company, and</p>	<p style="text-align: center;">Page 104</p> <p>1 A He kept bringing up the point he felt he got 2 kicked out the door; he had turned around the results and 3 Chubb had kicked him out the door, and he made that 4 comment.</p> <p>5 He asked me how certain people in the office 6 were, and I mentioned to him that Mike Zdinak had taken a 7 different position.</p> <p>8 He said, "Yeah, I had started to lay the 9 groundwork for all of that."</p> <p>10 And that was probably the -- probably that 11 summarizes the key elements.</p> <p>12 Q Okay. And you said --</p> <p>13 A I tell you this, just, subjectively, it was 14 pretty uncomfortable for me at the time.</p> <p>15 Q It was uncomfortable --</p> <p>16 A Yes.</p> <p>17 Q -- for you because he was obviously bitter 18 and he was critical of Chubb?</p> <p>19 A In front of a junior employee who reported 20 to me, correct.</p> <p>21 Q But the junior -- but the person you were 22 with was also a Chubb employee?</p> <p>23 A That's correct. She reported to me.</p> <p>24 Q Okay. And what was her name?</p>

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1 A. Erin Pesce, P-e-s-c-e.		1 of mine, and I didn't think it was appropriate.
2 Q. What did Erin -- what was Erin's reaction to		2 And these were the exact words I shared with
3 this that you recall?		3 Ms. Haggard afterwards: "I don't think it's appropriate,
4 A. She blushed and she was fidgety, nervous.		4 whether it's true or not, for a younger employee who
5 Q. She got over it?		5 reports to me to get the impression that my zone manager,
6 A. I don't know that.		6 the zone manager who is responsible for our area, doesn't
7 Q. Any comments?		7 like me. I don't think that's appropriate."
8 A. We decided not to talk about that.		8 And I shared that with her.
9 Q. Okay.		9 Q. Okay. Now, did you share it with anybody
10 A. So you just haven't talked about it since?		10 else?
11 Q. Okay.		11 A. I might have.
12 A. Not to her.		12 Q. I mean, some peers?
13 Q. Okay. And did you talk to somebody else		13 A. I might have talked to -- yeah. I think I
14 about this?		14 might have mentioned the fact we ran into him. I might
15 A. Yes.		15 have even mentioned some of the comments he made to the
16 Q. Have you told me about all the important		16 extent that, you know, "Baillie's pretty p'd off, yeah."
17 things you remember about that conversation?		17 Q. You mean to some of your colleagues?
18 A. Yeah.		18 A. Yeah.
19 Q. Okay.		19 Q. Did anybody from Chubb in any kind of
20 A. The key elements. I mean, I don't recall		20 official role come to you and interview you about this?
21 all the pleasantries, you know: "How are you? How are		21 MR. CROALL: Other than counsel.
22 things going? How are the family?"		22 Q. Other than counsel.
23 We did exchange that as well, and the		23 A. No. Other than my comment to Ms. Haggard.
24 conversation evolved into the things I mentioned to you.		24 Q. To Haggard?
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1 Q. Did he mention to you anything about the		1 A. Right.
2 severance Chubb had offered to him and Chubb's response,		2 Q. How long would you estimate you talked to
3 or Chubb's -- anything about whether he was still kind of		3 Ms. Haggard about this event?
4 negotiating with Chubb or anything like that?		4 A. A few minutes.
5 A. No.		5 Q. Okay. But after you mentioned it to
6 Q. Okay. You reported this conversation to		6 Ms. Haggard -- I just want to make sure -- Szerlong didn't
7 someone else?		7 come to you.
8 A. Yes. I shared it with Ms. Haggard because I		8 A. No.
9 knew other employees were going to be at that meeting		9 Q. Patricia Hurley?
10 later on in the day.		10 A. No.
11 Q. And you told -- you obviously don't have any		11 Q. Nobody in Chubb that you can recall?
12 notes from this?		12 A. No.
13 A. No.		13 Q. Outside of maybe counsel?
14 Q. To the best of your knowledge, you probably		14 A. That's correct, other than having a
15 told Haggard essentially what you've told us this morning?		15 conversation with a peer of mine in the branch, kind of
16 A. Yes.		16 half joking.
17 Q. Okay.		17 Q. Yeah.
18 A. And my -- just my lack of comfort.		18 A. Yeah. That's it.
19 Q. Okay. It made you uncomfortable?		19 Q. Let me ask you a hypothetical question and
20 A. Yeah.		20 see if you can answer the question. Let's take Ms. Pesce
21 Q. Because it was -- it was something that you		21 out of the picture. Let's remove her from that
22 didn't anticipate running into that day?		22 conversation completely, just act like she wasn't there.
23 A. No. It made me uncomfortable because the		23 Do you think you would have had the same
24 comments were made in front of, you know, a young employee		24 reaction?

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1	MR. CROALL: Object on the speculation and	1	Q. Okay.
2	hypothetical.	2	A. Pretty much out of character.
3	But you can answer if you can.	3	Q. Pretty much out of character?
4	A. No.	4	A. Yes.
5	Q. It sounds like your discomfort was caused by	5	Q. Okay.
6	the fact Pesce was there.	6	A. The way I had observed Doug in the past,
7	A. Right.	7	interacted with him.
8	Q. Now let me ask you: Did he say anything --	8	Q. His personality seemed different?
9	first of all, did you take --	9	A. Yeah.
10	A. Can I just add to that last?	10	Q. How long do you think this conversation was?
11	Q. Sure.	11	A. Five, ten minutes.
12	A. I was not comfortable sharing financial	12	Q. Was he like animated during this
13	results with him because he no longer worked for the	13	conversation? Like how people get when they get upset?
14	organization, but I felt that --	14	Kind of arms going more than usual?
15	Q. Oh, I see.	15	A. No. I don't think he used his arms.
16	A. -- in vague terms I could probably relate to	16	Q. Any other ways that you could tell that he
17	him what was going on.	17	was like just upset or uncomfortable?
18	Q. That's fair. Do you disagree -- do you	18	A. It was probably the tone of his voice and
19	think his statement, or in substance his statement that "I	19	kind of just the way he made the comment, but I'm
20	laid the groundwork" -- do you think that was	20	speculating on that. I mean, to me it appeared that he
21	fundamentally false?	21	was upset.
22	THE WITNESS (to Mr. Croall): Do I answer	22	Q. Were you surprised about that, given that it
23	that?	23	was maybe two, three months after the fact and he was
24	MR. CROALL: If you can.	24	still upset or bitter?
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1	Q. Do you agree or disagree with that?	1	A. Was I surprised at the time?
2	A. It wasn't completely false. I mean, he was	2	Q. Were you kind of surprised at his tone?
3	the branch manager. We performed a cleanup of the book	3	Were you expecting --
4	while he was a branch manager.	4	A. Well, I mean, given the phone call that I
5	Q. So it's probably a fair statement?	5	had received the last day of his employment and that
6	A. It's -- yeah. I mean, he was in charge of	6	reaction, yeah, it was surprising. Like I said, I mean,
7	the branch at the time.	7	it appeared out of character.
8	Q. Okay.	8	Q. Anything else you recall from that
9	A. The cleanup of the book was performed, so...	9	conversation in the sense that he appeared to be upset in
10	Q. Now, how would you characterize the	10	any other manner? Was he -- you know, could you just --
11	statement that "they kicked me out the door"?	11	could you kind of tell by facial expression?
12	Do you think that's true or false?	12	A. I could tell from probably the tone of his
13	A. I -- I would tell you that I didn't know	13	voice more than anything else.
14	these -- you know, the reasons surrounding his departure,	14	Q. You could tell --
15	so I couldn't tell that they kicked him out the door or	15	A. And just the way he described like, "I got
16	not. That was his comment to me.	16	kicked out the door." I mean, that to me symbolizes
17	Q. You just knew he was out the door?	17	somebody upset rather than somebody who is happy with his
18	A. That's correct.	18	current state.
19	Q. And you said he was very bitter?	19	Q. You could tell he was hurt?
20	A. Yeah.	20	A. I could tell he was upset, yeah.
21	Q. Okay.	21	Q. Okay. Anything else you remember about
22	A. He was upset, very -- I would characterize	22	that? Anything about his -- the way he looked? The way
23	it -- if I can do that, I would characterize it as very	23	he acted?
24	unusual for the way I had perceived Doug.	24	A. I mean, he was wearing a suit.

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1	Q. Yeah.	1 A. The only thing I know, it is my
2	A. But, no.	2 understanding other people met with him on that Big I day
3	Q. Any --	3 and he -- rumor is he made some other comments.
4	A. I will tell you this. It did appear to me	4 Q. Okay.
5	as we were talking he was getting more -- and, again, this	5 A. But I don't know what the comments are.
6	is perception, but it seemed like he was piling on. He	6 Q. Okay. You don't know anything about those
7	started with his comments just about how things were	7 rumors at all?
8	improving. Then he made the comment about Szerlong not	8 A. No. No. I don't know the details, no.
9	liking me. And I thought it was kind of like, "Okay, what	9 Q. Do you know in general anything more than he
10	are you going to say next?"	10 made similar comments?
11	And that kind of prompted my lack of comfort	11 A. No. Sorry.
12	with the conversation.	12 Q. Okay. Do you know any of the people who
13	Q. He was getting more agitated the more and	13 allegedly saw him that day?
14	more he talked about Chubb?	14 A. I believe Mr. Tazik did, and I believe
15	A. well, he was -- yeah, I guess.	15 Mr. Gates did, and a former employee of mine by the name
16	Q. Then you said you got an e-mail from him?	16 of Brandi Caldwell. That's C-a-l-d-w-e-l-l.
17	A. Um-hmm (nodding head affirmatively.)	17 Q. Brandi Caldwell?
18	Q. It was a friendly e-mail --	18 A. A former employee of mine.
19	A. Right.	19 Q. Okay.
20	Q. -- inviting you to stay at his residence?	20 A. There might have been one other person. I
21	A. Yeah. I forget if it's a condo or house,	21 don't recall for sure.
22	"If you're ever in the Florida area," right.	22 Q. And you just don't remember what Tazik,
23	He actually made -- I think he made the	23 Gates, or Caldwell relayed about those conversations?
24	comment about Disney World, "If you want to take the kids	24 A. No, I don't.
	Page 114	Page 116
1	to Disney."	1 Q. Do you remember in general that they -- they
2	Q. Maybe I asked you this before, but why	2 shared your view he appeared to be kind of bitter or
3	didn't you respond to that?	3 upset?
4	A. Just didn't -- didn't respond. I don't	4 A. Well, I would -- I mentioned to both Gates
5	know. I don't recall why I didn't respond to it. I might	5 and Tazik that I thought he was pretty upset, and I -- I
6	have wanted to at one point in time, things got in the	6 honestly don't recall what their response to that was. I
7	way, and then I forgot.	7 mean, I mentioned to them, that, you know, "Oh, gee, he
8	Q. Did you ever learn -- were you ever told any	8 was" -- I think I might have said "on fire" or something
9	reasons why, other than from counsel -- okay. Have you	9 like that.
10	ever been told from anybody other than counsel that Chubb	10 Q. Yeah. Were you -- when you got that phone
11	allegedly withdrew its severance offer to Mr. Baillie?	11 call from him that night --
12	A. No.	12 A. Um-hmm (nodding head affirmatively).
13	Q. Or the reasons why they allegedly did that?	13 Q. -- where he told you he had been let go,
14	A. Uh-huh (nodding head negatively).	14 what do you recall your reaction being like when you hung
15	Q. And since Mr. Baillie's termination, has	15 up the phone or talked to your wife about it? Is it fair
16	anybody else in your office that you can recall, or any	16 to say that you were surprised?
17	other person, really, on the face of the earth that you	17 A. No, I wasn't surprised.
18	can recall -- has anybody else ever disclosed to you that	18 Q. Okay. Now, why weren't you surprised?
19	they had any kind of meeting with Mr. Baillie or a chance	19 A. He had made a comment to me on the way back
20	occurrence and he said things that were either	20 from a business meeting in New Jersey that was actually
21	inappropriate or unfair about Chubb or false about Chubb?	21 given dealing with the uninsured motorist topic. He was
22	A. Since his departure?	22 on the cell phone to his wife and made a comment to the
23	Q. Yes. Since his departure, has anybody said,	23 effect that, "Yeah, the meeting went okay. I guess I kept
24	"I had a similar meeting with Baillie"?	24 my job for another month."

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1 And then I just looked at him, and he said, 2 "Well, things are the way they are," something to that 3 effect. 4 And I kind of thought to myself something 5 must not be going so well. And I recognized we weren't 6 making a lot of profit for a number of years, so I wasn't 7 entirely shocked, no. I thought it was very unusual for 8 Mr. Szerlong to come to the branch unannounced on a Friday 9 afternoon. 10 Q. You said you were entirely shocked? 11 A. No, I was not entirely shocked. 12 Q. Okay. 13 A. And I thought for Mr. Szerlong to kind of 14 come to the branch on a Friday afternoon without 15 announcement, I mean -- 16 Q. Okay. 17 A. I guess my gut instinct was telling me 18 something was going on. And when he called and my wife 19 told me that Mr. Baillie was on the phone, it's like -- I 20 kind of whispered to her -- I said, "Boy, this isn't good 21 news." 22 And then he explained to me what happened on 23 the phone. And I think my reaction was to him, "It just 24 doesn't seem right, Doug."	1 that? 2 A. He made a comment -- I was standing outside 3 of his office, and I don't know exactly what the phone 4 call was about, but he just came out of his office. He 5 had his door closed. He came out of his office, and he 6 said something to the effect like, "Holy cow, this just 7 went on and on forever." 8 And he had talked to Mr. Szerlong and he 9 actually mentioned that it was some performance-related 10 matter, but no more than that. 11 Q. Do you have any ability to place a time 12 frame on that? 13 A. No, I don't. 14 Q. In relation -- do you think it was in 2000 15 or 2001? 16 A. It might have been 2000. 17 Q. Okay. 18 A. But that's -- that's probably the extent of 19 it. 20 Q. How about Szerlong showing up on that Friday 21 afternoon? Were you surprised -- is it fair to say you 22 were surprised by his appearance that day? 23 A. Yeah. 24 Q. And that kind of laid the groundwork for
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1 And he said, "Well, Tim Szerlong and I 2 agreed to disagree and I'm no longer employed by Chubb." 3 And I might have said again, "That just 4 doesn't seem right, Doug." 5 He said, "It is what it is. It's a good 6 company. You'll have a good career," you know. 7 Q. Okay. Did you relay that conversation to 8 anybody that you can recall? 9 MR. CROALL: Other than counsel. 10 Q. Other than counsel. 11 A. I might have. I don't remember. 12 Q. Okay. 13 A. I might have shared the whole summary in the 14 office. 15 Q. Like Haggard or anybody like that? 16 A. Either Haggard or Tazik. I'm pretty close 17 to both of them, so I might have mentioned it to either 18 one of them. 19 Q. Okay. Now, prior to his termination date, 20 in this telephone call at night and Szerlong showing up in 21 the afternoon and other than your conversation you said on 22 the way back from New Jersey, had he ever said anything 23 else that gave you some impression that maybe he was under 24 the gun or not long for the Chubb world or anything like	1 your lack of surprise when you got the phone call? 2 A. That's correct. 3 Q. Right? 4 A. Yes. 5 Q. It's fair to say, if you would not have seen 6 Szerlong in the office on that Friday and then you would 7 have gotten that call from Baillie, your surprise level 8 might have gone up? 9 A. Yeah. 10 Q. Okay. Now, when you have spoken -- how 11 about -- you've spoken regarding Mr. Baillie's departure 12 with other people you mentioned before. 13 A. Um-hmm (nodding head affirmatively). 14 Q. What can you tell me about any conversations 15 you've had with Greg Tazik? Describe as much as you can 16 about those conversations with Mr. Tazik. 17 MR. CROALL: About Baillie's departure? 18 MR. FREKING: About Baillie's departure or 19 performance, but since his departure, yeah. 20 A. About his performance since his departure? 21 Q. Yeah. 22 A. Just so I understand this. 23 Q. About his performance and his termination, 24 but conversations you've had with Mr. Tazik since Mr.

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<p>1 Baillie's departure.</p> <p>2 A. I think it was in terms of my frustration 3 with -- my frustration with Doug at times and --</p> <p>4 Q. That you told us about earlier?</p> <p>5 A. Yeah. And Mr. Tazik, in his never-ending 6 cynical fashion, telling me: "Yeah, just remember him 7 reading the paper in your meeting," reminding me of that, 8 and conversations of that matter.</p> <p>9 Again, I mean, him and I would go out to 10 lunch on a daily basis. We'd talk about God and the 11 world, so this conversation obviously has come up, but, 12 you know...</p> <p>13 Q. Have you two talked at all about the fact 14 that Baillie has claimed age discrimination against the 15 company?</p> <p>16 A. No; not about the fact that Mr. Baillie 17 claimed it, no.</p> <p>18 Q. Have you talked about anybody else claiming 19 age discrimination or any kind of belief about age 20 discrimination at Chubb?</p> <p>21 A. I think Mr. Tazik might have made a comment 22 to me before that he feels that he has seen his fair share 23 of older people disappear. I personally didn't share that 24 belief with him.</p>	<p>1 A. Yeah. Mr. Barton shared with me that he 2 works for a small insurance company in Florida. I believe 3 he's a marketing manager. I'm not entirely sure of that.</p> <p>4 Q. Has Mr. Barton expressed any view to you 5 whether Baillie appears to be happier, madder, more 6 bitter, more happy?</p> <p>7 A. I think he made the comment jokingly to me 8 that, you know, he is where he wants to be, in Florida, on 9 a golf course, and nice weather.</p> <p>10 Q. Okay.</p> <p>11 A. That's about the extent of it.</p> <p>12 Q. That's about the subject of your 13 conversations with him? Nothing else sticks out?</p> <p>14 A. No.</p> <p>15 Q. How about Jerry Butler?</p> <p>16 A. Just, you know, I shared with him just kind 17 of my feedback on how I felt some things worked well and 18 didn't work well with Doug and that I felt maybe Doug 19 wasn't supportive enough in some of the tougher business 20 decisions we had to make.</p> <p>21 And he shared some of his observations from 22 the Harrisburg office with me, which Doug Baillie used to 23 manage prior to managing Cincinnati.</p> <p>24 Q. What was that? What did Mr. Butler say</p>
<p>1 Q. Okay. Anything else that you two have 2 talked about in the nature of or related to the subject of 3 age discrimination?</p> <p>4 A. No.</p> <p>5 Q. Now, when you said something about his 6 never-ending cynical fashion, you were talking about 7 Tazik?</p> <p>8 A. Yes.</p> <p>9 Q. That's certainly not a Baillie trait?</p> <p>10 A. No, it's not, no.</p> <p>11 Q. And then, when you said Tazik said something 12 to effect to you that he has seen his fair share of older 13 people disappear, he's referencing Chubb?</p> <p>14 A. Oh, yes. I'm sorry. Yes. He felt that he 15 had seen older people disappear in this company.</p> <p>16 Q. Okay. How about Jeff Barton? What do you 17 recall about your conversations along the same lines?</p> <p>18 A. It was more about -- you know, I know that 19 Jeff -- in my perception, Jeff and Doug got along really 20 well, and it was more like, you know, "Have you stayed in 21 touch with him? Have you talked to him since?" That's -- 22 nothing, you know, in detail.</p> <p>23 Q. Have you learned anything about what Mr. 24 Baillie is now doing or has been doing?</p>	<p>1 about Mr. Baillie's performance in the Harrisburg office?</p> <p>2 A. The gist -- summarizing his -- basically his 3 focus in Harrisburg was marketing-driven and the book 4 wasn't in that good of shape and there was a lot of keying 5 up that had to be done, a couple -- I think he mentioned a 6 few programs, insurance programs that weren't working well 7 and so...</p> <p>8 Q. Can you tell me when these conversations 9 with Mr. Butler have taken place in relation to calendar 10 years?</p> <p>11 A. Over the course of the last year and a half.</p> <p>12 Q. Okay. Anything else that you can recall?</p> <p>13 And I realize we've got a time crunch here. I'm trying to 14 rush through this.</p> <p>15 A. Okay.</p> <p>16 Q. Anything else you can recall from Mr. -- and 17 I don't want to rush you.</p> <p>18 MR. CROALL: Well, Mr. Korte and I have 19 talked. He'd rather go -- you know, if he has to 20 go ten minutes later to get it done, if we can 21 avoid coming back.</p> <p>22 MR. FREKING: Yeah. I don't have a lot.</p> <p>23 MR. CROALL: I get the sense you're getting 24 close to the end of the road.</p>

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<p>1 MR. FREKING: Pretty close, yeah. But if we 2 get to point where you have to leave, just say so.</p> <p>3 A. One of the stories that kind of jokingly 4 came up was, I think, you know, a golf story that I heard 5 about Mr. Baillie, that Mr. Baillie had shared with me 6 from his Harrisburg days, where apparently he was playing 7 golf and had blood running down his leg, and it was a 8 result of an accident, car accident the prior day, where 9 he had driven a car off a ravine or into a ravine and had 10 climbed out and hadn't called the police. And while he 11 climbed out, he cut himself, and the next day the blood 12 was running down his leg while he was playing golf. He 13 kind of jokingly told me about this story.</p> <p>14 Q. Butler told you this story?</p> <p>15 A. No; Baillie did. And I related that story 16 to Butler.</p> <p>17 Q. I see.</p> <p>18 A. And Butler told me a story about where 19 Baillie was on a golf trip and they had consumed quite a 20 bit of beer and had fallen down just face first in the 21 parking lot.</p> <p>22 Q. Did Mr. Butler indicate whether or not he 23 had heard the story about the blood and the auto accident 24 before or whether this was kind of a new thing to him?</p>	<p>1 1 how the book of business was and it was not in good shape 2 2 in Harrisburg while Baillie was in charge of Harrisburg --</p> <p>3 A. Um-hmm (nodding head affirmatively).</p> <p>4 Q. -- did that -- did that have any impact on 5 you?</p> <p>6 A. No.</p> <p>7 Q. Do you know whether it was true or false?</p> <p>8 A. I would assume it's true. I didn't monitor 9 the Harrisburg results, so I couldn't tell you.</p> <p>10 Q. Does that make you think more or less of 11 Baillie?</p> <p>12 A. No. I mean, I don't think anybody's -- at 13 the time the switch occurred, you know, a lot of people 14 had challenges in the business, so it was common in a lot 15 of branches that were having problems with the quality of 16 our underwriting decisions and the book of business.</p> <p>17 Q. Butler was not saying this about Baillie in 18 any kind of positive or complimentary fashion, right? He 19 was saying it in kind of a negative fashion?</p> <p>20 A. Well, we had just talked about Doug in 21 general and I -- I might have mentioned to Mr. Butler that 22 Doug prided himself that the Harrisburg branch was 23 performing well, and his comment back to me was it wasn't 24 all that it appeared to be because we had a lot of</p>
<p>1 A. I don't remember now if he had heard it 2 before or not.</p> <p>3 Q. Okay. You had not heard, but Butler told 4 you that Baillie had been on a golf trip and he got so 5 drunk that he fell down in the parking lot?</p> <p>6 A. Right.</p> <p>7 Q. Kind of like (indicating)?</p> <p>8 A. And Baillie pretty much had shared that 9 story with us too, because he was in the branch. When he 10 returned from the trip, he was still our branch manager. 11 I think he might have even had a concussion from that 12 incident.</p> <p>13 Q. Oh, you think this incident where he fell 14 down in the parking lot allegedly occurred while he was 15 Cincinnati branch manager?</p> <p>16 A. That's correct, yes, and while Mr. Butler 17 was Harrisburg branch manager.</p> <p>18 Q. But it occurred up in Harrisburg?</p> <p>19 A. It occurred, actually, on a -- kind of a 20 vacation --</p> <p>21 Q. Okay.</p> <p>22 A. -- that a group of people take every year, 23 and they had decided to invite Mr. Baillie on that trip.</p> <p>24 Q. Okay. Now, when he told you comments about</p>	<p>Page 126</p> <p>1 1 cleaning up to do on that book of business. So those 2 2 might not have been the exact words, but --</p> <p>3 Q. So he was basically telling you that Baillie 4 had kind of exaggerated what he had done at Harrisburg?</p> <p>5 A. Yeah, exaggerated, or at least might not 6 have been as good as it appeared on the surface.</p> <p>7 Q. What about -- we talked about Tazik, Barton, 8 Butler. I think you also said Tom Gates. You had some 9 discussions about Baillie?</p> <p>10 A. Just brief comments. I mean, not in-depth 11 discussions.</p> <p>12 Q. Nothing of substance, either positive or 13 negative --</p> <p>14 A. No.</p> <p>15 Q. -- about Baillie?</p> <p>16 A. No.</p> <p>17 Q. Did you ever talk to anybody besides Tazik 18 about the subject of age discrimination, either against 19 Baillie --</p> <p>20 A. No.</p> <p>21 Q. -- or Chubb or generally?</p> <p>22 A. No, ugh-huh (nodding head negatively).</p> <p>23 And I would tell you I did not agree with Tazik's comments 24 personally.</p>

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1 Q. You've worked at Chubb your entire career?	2 A. Yes.	1 discussing with Ms. Haggard about Doug Baillie at all
3 Q. In the United States; is that correct?	4 A. That's correct.	2 since his termination?
5 Q. It's fair to say that you intend to stay at	6 Chubb as long as you possibly can?	3 A. Well, I can tell you that I shared with her
7 A. Yes.	8 Q. You would describe yourself as a pretty	4 the fact that I wasn't looking forward to this event, that
9 loyal guy to Chubb?	10 A. I -- yeah. I think so, yeah. That's a fair	5 I'm a little bit frustrated that this is going on. And I
11 statement.	12 Q. From an underwriting perspective or any	6 had over the years shared with her as a friend, as well as
13 other perspective, do you have any knowledge or	14 information as to how a judgment against Chubb, if Baillie	7 an HR manager, when I had frustrating moments with Doug.
15 was successful in his lawsuit, would be recorded on your	16 books?	8 Q. Tell me -- explain to me why you're
17 A. Do I know how we financially would account	9 frustrated that this is going on.	10 A. I think it's disruptive to what I do day to
18 for that?	19 Q. Yes.	11 day, selfishly speaking. You know, again, I mean, to me,
20 MR. CROALL: I'm going to object.	21 But you can answer if you know.	12 as a personal opinion, I think Doug has a job now. I
22 A. I don't know. No. I mean, I assume it's an	23 expense somewhere.	13 think -- I shouldn't speculate on his state of affairs,
24 Q. But you don't know whether --		14 but I think Doug has a job. Doug is, you know, in
		15 Florida. He always made the comment he liked the South,
		16 and he has a marketing job, which I know he liked to do.
		17 And I just -- I personally -- my personal opinion would be
		18 just to move on. I just --
		19 Q. Has Ms. Haggard ever shared with you the
		20 company's conduct in regard to the severance offer it made
		21 to Mr. Baillie?
		22 A. No. I had heard that there was an offer
		23 made, but that's the extent of it.
		24 Q. You have not heard as to whether that offer
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1 A. I mean, we're a publicly traded company.	2 It's an expense item would be my guess. Maybe we even	1 was withdrawn?
3 have insurance for it. I don't know. I'm guessing.	4 Q. You don't know whether you have insurance or	2 A. I don't -- I had heard an offer was made and
5 not?	6 A. I don't.	3 that the offer is not on the table anymore -- why that is,
7 Q. And you don't know whether it would be	8 recorded on the branch's books, the zone's books?	4 I don't know -- and that's why we're proceeding, because I
9 A. No.	10 Q. Or region's books?	5 think it was a result of me asking why we're proceeding
11 A. I have no knowledge of that.	12 Q. Okay. How about Diane Haggard? You've had	6 with this.
13 conversations about Baillie with Diane Haggard. You think	14 you may have relayed the termination-night conversation to	7 Q. Do you think --
15 her?	16 A. I believe I did that.	8 A. This legal matter.
17 Q. Okay. You went back to her after that fall	18 convention --	9 Q. You think you got that information from
19 A. Yes.	20 Q. -- discussion? And I think you've told me	10 Ms. Haggard?
21 as much as you can remember about your conversation with	22 Haggard in that regard; is that correct?	11 A. I think so.
23 A. Um-hmm (nodding head affirmatively).	24 Q. Okay. Anything else you can recall	12 Q. But she didn't tell you why it was not on
		13 the table anymore?
		14 A. No, uh-huh (nodding head negatively).
		15 Q. Did she ever suggest, imply, or state that
		16 somehow Mr. Baillie caused it to be taken off of the
		17 table?
		18 A. No.
		19 Q. In other words, it's off the table. Do you
		20 have any belief -- do you have a belief one way or the
		21 other as to who took it off the table?
		22 A. I -- I mean, my assumption is, if somebody
		23 puts an offer on the table and it's no longer on the
		24 table, that means the other party rejected the offer would

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<p>1 be my guess. Do I know that? No. That's an assumption 2 I'm making.</p> <p>3 Q. And you think that Baillie -- the assumption 4 you're making is that Baillie, by the fact he's got a job 5 now, that he's not acting appropriately by --</p> <p>6 A. I didn't say appropriately, no.</p> <p>7 Q. You think in some way he's wrong because you 8 believe that he's got a job now, and your belief is that 9 he's the one that rejected the offer?</p> <p>10 A. No. But my point is I wished this wouldn't 11 continue. I wish, you know, it wouldn't cause the 12 disruption in my life and the life of my peers and just 13 all focus on what we need to do, which is our job, for the 14 company.</p> <p>15 Q. Have you ever been aware of anybody else in 16 the company that has ever received a severance offer?</p> <p>17 A. Yeah. I've made severance offers to people.</p> <p>18 Q. Okay. Tell me about severance offers you've 19 made and how you determined the size of the severance 20 offers.</p> <p>21 A. Actually, it was made in conjunction with 22 human resources and it went through an approval system.</p> <p>23 THE WITNESS (to Mr. Croall): That's okay to 24 share?</p>	<p>1 answer that?</p> <p>2 MR. CROALL: Go ahead and answer.</p> <p>3 THE WITNESS: I mean, it's my opinion.</p> <p>4 MR. CROALL: Whatever you think you did.</p> <p>5 A. I would assume companies will negotiate to 6 avoid lawsuits.</p> <p>7 Q. Okay.</p> <p>8 A. I mean, I think that's being -- in the field 9 I'm in, I know this is something that goes on.</p> <p>10 Q. Okay.</p> <p>11 A. And that might mean you get a bigger package 12 than what's spelled out.</p> <p>13 Q. Right. Have you ever learned that you were 14 involved in some sort of severance process and through the 15 negotiations someone was able to achieve more than they 16 had been offered?</p> <p>17 A. No. It was pretty amicable, the amounts 18 that we had reached in those two instances.</p> <p>19 Q. Okay. You only have been involved in two 20 instances --</p> <p>21 A. Yes.</p> <p>22 Q. -- in which severances have been made?</p> <p>23 A. Um-hmm (nodding head affirmatively).</p> <p>24 Q. In neither instance did the person get an</p>
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<p>1 MR. CROALL: Designated as confidential, but 2 you can answer.</p> <p>3 THE WITNESS (to Mr. Croall): Okay. I'm 4 sorry.</p> <p>5 A. No. It's something that, you know, goes 6 through our human resources department and we suggest it 7 and we either get approval of our suggestion or not.</p> <p>8 Q. Is there a policy or practice, if you know, 9 as to how much severance to offer an individual?</p> <p>10 A. Yes. We have an employee handbook that's on 11 line and acknowledged by every employee that clearly 12 spells out the procedures, the amounts, what determines 13 the pay, yes.</p> <p>14 Q. And you think that that handbook would be 15 able to reveal to you what Mr. Baillie, for example, would 16 be offered? It would be applicable to him?</p> <p>17 A. I know that, based on the termination 18 procedures that are outlined in the book, this is what I 19 could expect. I know the circumstances where you can 20 possibly negotiate with the company.</p> <p>21 Q. Now, why -- what -- explain to me what you 22 know about the circumstances about being able to 23 negotiate.</p> <p>24 THE WITNESS (to Mr. Croall): Do I need to</p>	<p>1 attorney?</p> <p>2 A. No.</p> <p>3 Q. Who were those individuals?</p> <p>4 A. Brandi Caldwell and Rick O'Brien. That's 5 O'Brien, O-'-B-r-i-e-n.</p> <p>6 Q. Rick O'Brien?</p> <p>7 A. Um-hmm (nodding head affirmatively).</p> <p>8 Q. These were people that reported directly to 9 you?</p> <p>10 A. Correct.</p> <p>11 Q. And as far as you know, they accepted 12 whatever package was offered?</p> <p>13 A. Yeah. As far as I know, that's correct.</p> <p>14 Q. Now we've been talking awhile. Maybe this 15 will help refresh your recollection a little bit.</p> <p>16 Earlier, I think you identified people you have talked to 17 about Baillie and this matter and his termination as being 18 your wife, Tazik, Haggard, Gates, Barton, and Butler?</p> <p>19 A. Um-hmm (nodding head affirmatively).</p> <p>20 Q. As we've kind of talked about it some more, 21 do you think you can remember anybody else associated with 22 Chubb that you've discussed this matter with other than 23 counsel?</p> <p>24 A. Yeah. I would have discussed it, now that</p>

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<p>1 you say that -- and I apologize for missing it. I would 2 have discussed it with Erin Pesce, because she was very 3 concerned.</p> <p>4 Q. Okay. Tell me about the substance or nature 5 of your conversation with Erin Pesce.</p> <p>6 THE WITNESS (to Mr. Croall): Well, part of 7 that involved relationship with your firm.</p> <p>8 MR. CROALL: Okay. Nothing about 9 conversations with counsel.</p> <p>10 MR. FREKING: Nothing about conversations 11 you've had with Mr. Croall.</p> <p>12 MR. CROALL: The conversations you had with 13 Pesce is okay.</p> <p>14 Q. So if you and Pesce talked about lawyers, 15 for example --</p> <p>16 A. Yes.</p> <p>17 Q. -- you can reveal that.</p> <p>18 A. Yes.</p> <p>19 Q. You just cannot reveal any conversations 20 you've had with Mr. Croall or other counsel.</p> <p>21 A. I don't know what conversations Ms. Pesce 22 had with him, but she came to me concerned because she was 23 being asked to relay her experience at the Big I day, and 24 she was very upset about the fact she had to share that</p>	<p>1 a chance meeting with him, right? You were walking down 2 the aisleway and happened to run into him?</p> <p>3 A. Yeah. I didn't know he was going to be 4 there, that's correct.</p> <p>5 Q. Right. And as uncomfortable as it may have 6 been, okay, you could have chosen to withdraw from that 7 conversation?</p> <p>8 A. I guess, yeah.</p> <p>9 Q. I mean, he wasn't forcibly keeping you there 10 or anything like that?</p> <p>11 A. Oh, no. No, no, no.</p> <p>12 Q. Okay. And you could have said to him, 13 "Doug, I really don't want to hear any of this," and you 14 chose to listen rather than confront him --</p> <p>15 A. Yeah. That's --</p> <p>16 Q. -- or stop him?</p> <p>17 A. That's a fair statement.</p> <p>18 Q. And, to your knowledge, he didn't say 19 anything to you that was false on this Big I Day?</p> <p>20 A. I don't know if Mr. Szerlong likes me or 21 not.</p> <p>22 Q. Okay. But that would be the statement that 23 would -- may or may not be true or false in your mind?</p> <p>24 A. I also can't tell whether Chubb kicked him</p>
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<p>1 with other people.</p> <p>2 And so that's kind of -- she had asked me 3 what was going on. And I had to explain to her that, you 4 know, Mr. Baillie had been let go and that he's pursuing 5 legal -- you know, a legal course of action against Chubb 6 and this is part of that; you know, her having to meet 7 with attorneys is part of that whole legal action.</p> <p>8 Q. And this conversation you had with Ms. Pesce 9 and her level of concern about having to discuss this Big 10 I day would have occurred shortly around that date?</p> <p>11 A. I would say probably early -- late in '01, 12 early '02.</p> <p>13 Q. You told her he's pursuing some sort of 14 legal course of action?</p> <p>15 A. Right.</p> <p>16 Q. Now, did Ms. Haggard tell that you? How 17 were you aware that he was pursuing a legal course of 18 action?</p> <p>19 A. I don't remember. I was -- it was -- I was 20 not brought officially into it. It was probably 21 Ms. Haggard, because we knew we would have to meet with 22 attorneys on the matter, so...</p> <p>23 Q. Now, during this conversation with Mr. 24 Baillie at the Big I day, this was kind of a happenstance,</p>	<p>1 out the door or not.</p> <p>2 Q. Right.</p> <p>3 A. Again, you know...</p> <p>4 Q. Right. Okay. And when you were told by Mr. 5 Baillie on the evening that he was fired, you testified 6 you said something to him like, "Doug, it shouldn't be 7 this way"?</p> <p>8 A. No; I said, "It doesn't feel right."</p> <p>9 Q. It doesn't feel right?</p> <p>10 A. That's correct.</p> <p>11 Q. You were being truthful and sincere at that 12 time?</p> <p>13 A. Yeah. I felt bad for him. I mean, you 14 know, he was a nice guy to me and part of me, I think, 15 wanted to make him -- I don't know -- I just felt maybe 16 that would comfort him a little bit too, being a little 17 bit supportive for him. He was a nice man.</p> <p>18 Q. Did it feel right to you?</p> <p>19 A. Deep down in my gut, yes. But, I mean, I'm 20 not cold-blooded enough to say that that was a good thing.</p> <p>21 You know, he's a human being. He was a nice guy. I felt 22 bad for him.</p> <p>23 Q. You're saying that, deep down, you felt it 24 was the right decision, even though -- let me finish this</p>

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1 -- even though, from your earlier testimony, you know, the
 2 number-one priority of Chubb is profitability, and even
 3 though Mr. Baillie had turned around that branch in terms
 4 of profitability?

5 A. He was leading the branch when the
 6 profitability turned over, that's correct. He was the
 7 branch manager at the time.

8 Q. Knowing that --

9 A. Um-hmm (nodding head affirmatively).

10 Q. -- you still are testifying now that, deep
 11 down, you thought on the evening of his termination it was
 12 the right decision?

13 A. Yeah. I --

14 Q. Is that --

15 A. Not in an enjoyable way. Don't
 16 misunderstand me. I felt bad for him.

17 Q. And that was for the reasons before --

18 A. Yeah.

19 Q. -- when we talked about the negative
 20 feelings of Mr. Bailee?

21 A. Yeah. I didn't feel he was the most
 22 effective branch manager we could have had during a very
 23 difficult business climate during that period of time for
 24 us. That's my personal opinion, so...

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1 It's a difficult thing to say for me. It
 2 doesn't come easy to say it when somebody loses their job
 3 that that was good, but I'm not sure how else to put that.

4 Q. Have you had any other conversations with
 5 Erin Pesce about this matter?

6 A. No, I don't believe so.

7 Q. Okay. What about Baillie or anything like
 8 that?

9 A. No.

10 Q. She just told you she was uncomfortable
 11 about the fact that she had to relay what happened that
 12 day?

13 A. Yeah. She was very concerned about that,
 14 and she -- actually, I believe, I was on a business trip.
 15 She called me on my cell phone and said, "I have to meet
 16 with attorneys. What is this all about?"

17 And she's just a little panicky about it.

18 She was a young -- you know, a young person, and not that
 19 I had ever been involved in anything like this either, but
 20 she was very uncomfortable with that.

21 Q. And, to the best of your knowledge, you
 22 think that -- I'm sorry, I don't want to put words in your
 23 mouth. When do you think that that conversation -- when
 24 she said, "I have to meet with attorneys," do you have any

1 -- knowing that that Big I Day was probably like November
 2 of '01, in relation to November of '01, do you have any
 3 ability to place that conversation with when you're on a
 4 business trip either in November, December, or January?

5 A. It was probably more January -- it was
 6 probably more 2002, but it's --

7 Q. Okay.

8 A. I'm speculating.

9 Q. Do you know where you were when you received
 10 that call?

11 A. No.

12 Q. You just know you were on some business
 13 trip?

14 A. I know I was in my car. I was rushing back
 15 to the office because I felt I had to sit down with her
 16 because she seemed pretty upset.

17 Q. You were driving around Cincinnati
 18 someplace?

19 A. Either Cincinnati or Louisville. Chubb -- I
 20 don't really recall where I was at the time. But when I
 21 got the call, I believe I was in my car on the way back to
 22 the office. I was just concerned because she seemed
 23 pretty upset.

24 Q. Okay. Do you think you have any ability to

1 find documents that would help you identify when that
 2 occurred?

3 A. No, I don't. Probably not.

4 Q. Because you would -- you might have -- do
 5 you keep records of when you're on the road --

6 A. Yeah.

7 Q. -- when you're traveling?

8 A. Yeah, but they don't specify phone

9 conversations. I mean, I go to Columbus and Louisville,
 10 for example, on a very frequent basis. So, it could have
 11 been January; it could have been February; it could have
 12 been December. It's hard to tell.

13 Q. Do you have copies of those kind of
 14 calendars still today someplace?

15 A. I believe I do.

16 Q. Do you have your, you know, like December
 17 '01 calendar someplace probably? Or January or February?

18 A. I think I do, yes.

19 Q. Okay. I just have -- that may -- we're
 20 going to ask for those calendars. We're going to ask
 21 Mr. Croall formally.

22 A. Okay.

23 Q. -- for those calendars to the extent --

24 MR. CROALL: Don't throw them away.

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1 A. Okay.

2 Q. -- they might give rise to a need to further
3 ask questions. So we're going -- we're going to keep the
4 deposition open for that purpose only.

5 A. Okay.

6 MR. CROALL: Okay. Reserving any
7 objections. But, yeah, it's a quarter to 12, and
8 we've gone a little longer than we expected to.

9 MR. FREKING: Yeah, we did.

10 Okay. Thank you very much, Dieter. I'll
11 tell Mr. Baillie you said hello.

12

13

14 Dieter Wilhelm Wolfgang Korte

15

16

17 DEPOSITION CONCLUDED AT 11:50 A.M.

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1 C E R T I F I C A T E

2 STATE OF OHIO : ss

3 COUNTY OF HAMILTON :

4 I, Raymond E. Simonson, RMR, CRR, the
5 undersigned, a duly qualified and commissioned notary
6 public within and for the State of Ohio, do hereby certify
7 that, before the giving of his aforesaid deposition,
8 DIETER WILHELM WOLFGANG KORTE was by me first duly sworn
9 to depose the truth, the whole truth, and nothing but the
10 truth; that the foregoing is the deposition given at said
11 time and place by DIETER WILHELM WOLFGANG KORTE; that said
12 deposition was taken in all respects pursuant to
13 stipulations of counsel hereinbefore set forth; that I am
14 neither a relative of nor employee of any of their
15 counsel, and have no interest whatever in the result of
16 the action.17 IN WITNESS WHEREOF, I hereunto set my hand
18 and official seal of office at Cincinnati, Ohio, this
19 day of 2003.

20

21 My commission expires: Raymond E. Simonson, RMR, CRR

22 June 23, 2003 Notary Public - State of Ohio

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